

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 26 June 2018	<b>Classification</b> For General Release	
<b>Addendum Report of</b> Director of Planning		<b>Ward(s) involved</b> Bryanston And Dorset Square	
<b>Subject of Report</b>	<b>Westcourt House, 191 Old Marylebone Road, London, NW1 5DZ</b>		
<b>Proposal</b>	Redevelopment of the site to provide hotel (Use Class C1) with ancillary ground floor cafe / restaurant in 13 storey building.		
<b>Agent</b>	JLL		
<b>On behalf of</b>	Whitbread Group PLC		
<b>Registered Number</b>	17/04194/FULL	<b>Date amended/ completed</b>	11 May 2018
<b>Date Application Received</b>	12 May 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	None		

## 1. RECOMMENDATION

1. Subject to referral to the Mayor of London, grant conditional permission, subject to a section 106 agreement to secure:

- a) A financial contribution of £45,000 (index linked and payable on commencement of development) for the expansion of a nearby cycle hire docking station;
- b) A financial contribution of £25,000 (index linked and payable on commencement of development) toward wayfinding (Legible London);
- c) A financial contribution of £27,239 (index linked and payable on commencement of development) toward the funding of Crossrail;
- d) A financial contribution of £35,000 (index linked and payable on commencement of development) toward bi-annual pruning of the two Ginkgo trees on Old Marylebone Road by TFL and for a period of 50 years from the date of this permission;
- e) In the event that the Ginkgo trees need to be removed within 50 years from the date of this permission, a financial contribution of £135,000 (index linked) toward street tree planting on Old Marylebone Road;
- f) Payment of the cost of highway works associated with the development on Old Marylebone Road and Harcourt Street;
- g) Offering local employment opportunities during construction and operation of the hotel;
- h) The provision, monitoring and review of a travel plan; and
- i) Payment of cost of monitoring the agreement (£500 per head of term).

2. If the S106 legal agreement has not been completed within 6 weeks then:

- a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;
  - b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.
3. That Committee authorises the making of a draft order pursuant to s247 of the Town and Country Planning Act 1990 for the stopping up of parts of the public highway and creation of new public highway to enable this development to take place. That the Director of Planning, Executive Director of City Management, or other such proper officer of the City Council responsible for highway functions, be authorised to take all necessary procedural steps in conjunction with the making of the orders and to make the orders as proposed. The applicant will be required to cover all costs of the Council in progressing the stopping up orders

## 2. SUMMARY

This application was reported to the Planning Applications Sub-Committee on 27 February 2018. The Committee resolved the following:

*“That conditional permission be deferred with the Sub-Committee minded to grant, subject to the loading bay being relocated from Harcourt Street to Old Marylebone Road and if necessary enlarged through the loss of two Ginkgo trees. Following discussions between officers and the applicant, the application be to be brought back to the Planning Sub-Committee for determination”.*

This followed an earlier deferral (24 October 2017 meeting), where the applicant was asked to, amongst other things, provide off-street servicing.

In response to the Committees deferral of 27 February 2018, the applicant now proposes use of the taxi drop-off / pick up bay proposed on Old Marylebone Road for servicing. This would provide a shared use area for taxis and delivery vehicles.

Transport for London (TfL) are the Highways Authority for Old Marylebone Road (a TLRN road) and they have objected to shared use of this bay. In summary, TfL have objected for the following reasons:

1. Due to high traffic flows and poor visibility turning in and out, the proposed loading use would be likely to increase the risk of conflicts and collisions, especially between motorised vehicles and vulnerable highway users such as pedestrians and cyclists;
2. The City Council’s own policy (S42 of the City Plan) requires that on-street servicing and delivery needs are met in such a manner than they minimise effects on other highway and public realm users and other residential or commercial activities. In their view, this policy would be best met through on-street servicing from Harcourt Street;

3. Servicing for the existing building already takes place from Harcourt Street in an uncontrolled manner and this application provides an opportunity for the City Council to control its amenity impact through a Traffic Management Order (TMO); and
4. TfL do not support the removal of healthy trees from the TLRN.

In response to TfL's Highway Safety concerns, the applicant notes that there would be only two deliveries per day, for up to 40 minutes a time and vehicle speeds are anticipated to be low on this part of Old Marylebone Road given the adjacent junction and pedestrian crossing. Deliveries would be coordinated by the applicant to ensure that they do not arrive simultaneously and do not conflict with taxi drop-off and pick-up times. This would be secured through a Servicing Management Plan to include a banksman. The banksman would, amongst other things, operate the push button at the pedestrian crossing to the north and up-stream of the bay to provide a safe window for delivery vehicles to leave. Deliveries would also be limited to between 10 am and 4 pm to further reduce potential conflict with peak taxi pick-up and drop off times. The applicant also proposes limiting the size of delivery vehicle to ensure that they do not exceed the size of the bay and overhang the southbound traffic lane. Other concerns raised by TfL in regards to the positioning of street signs and vehicle tracking can be addressed at detailed design stage. The applicant advises that TfL could not reasonably withhold agreement to the necessary section 278 agreement given the above

The Highways Planning Manager supports the applicant's proposal, subject to recommended Conditions 13 and 20, which would secure a Servicing Management Plan and limit delivery times to between 10am and 4pm, respectively.

With regards to the TfL's concern that the proposal conflicts with policy S42 of the City Plan, officers do not share this concern. Subject to the recommended conditions, the proposal would minimise adverse effects on the highways and locate servicing activity away from sensitive residential uses on Harcourt Street. Accordingly, it would be consistent with policy S42 of the City Plan.

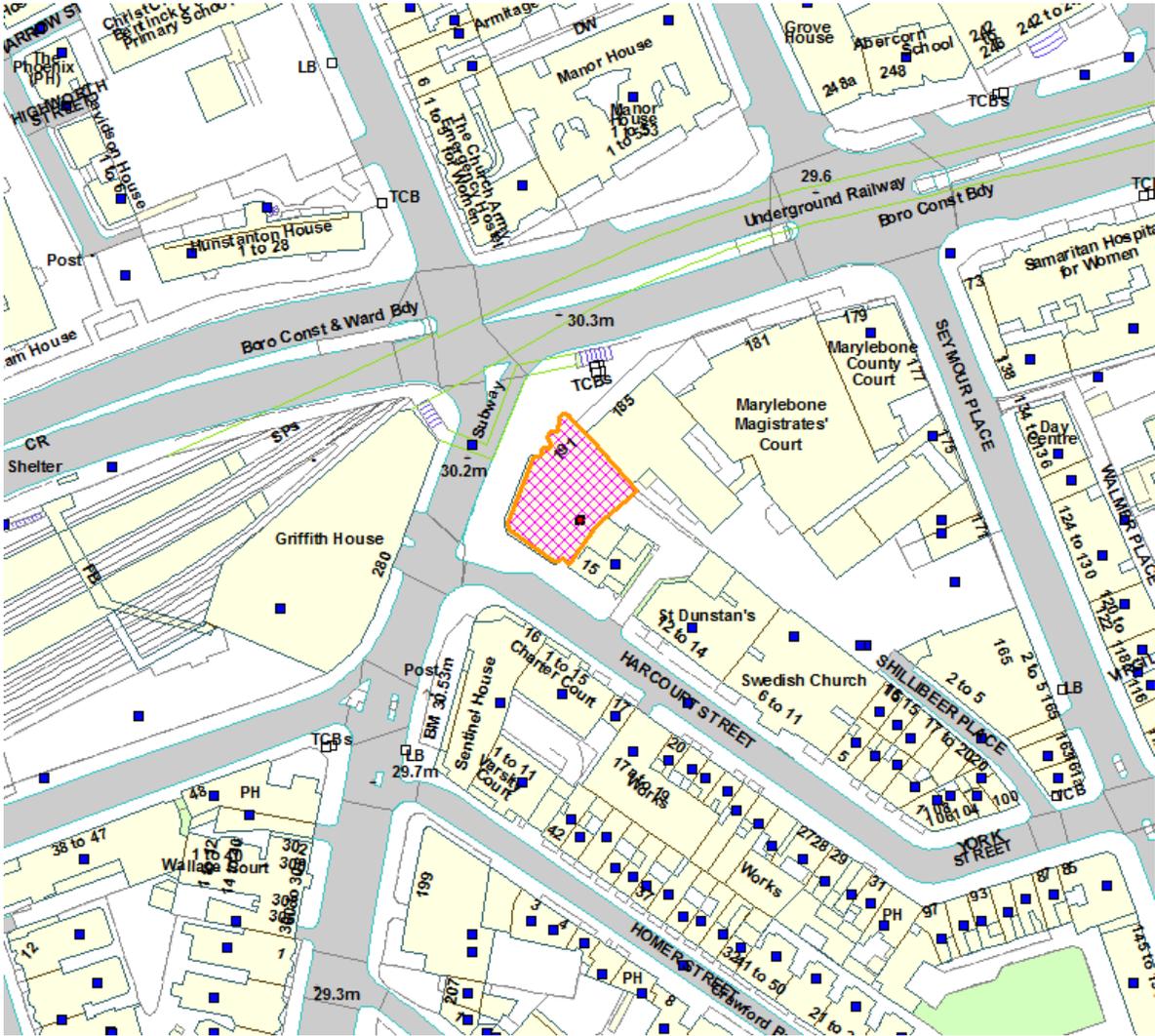
Whilst TfL consider that the proposal provides the City Council with an opportunity to control the amenity impact of servicing through a TMO, this could also be achieved through the recommended conditions. In addition, servicing from Old Marylebone Road would have the added benefit of locating it further from sensitive residential uses in Harcourt Street. Accordingly, this objection is not sustainable.

Use of this bay for servicing would require relocation of the central Ginkgo tree and TfL note that they do not support removal of healthy trees from the TLRN. However, the applicant proposes relocating the tree to an area near the junction with Harcourt Street. Accordingly, this objection is not considered sustainable.

The applicant advises that should the committee uphold TfL's objection to servicing from Old Marylebone Road, they would be happy to revert back to their original proposal to service from Harcourt Street and have prepared an alternative ground floor plan to support this.

Given the above, applicant has revised the proposal as requested by the committee and officers do not consider the objections of TfL to be sustainable. The application is therefore reported back to the Sub-Committee for it further consideration.

3. LOCATION PLAN



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4. PHOTOGRAPHS



Application site as seen from Marylebone Road



**Application site as seen from Harcourt Street and Marylebone Road intersection.**

## 5. CONSULTATIONS

### TRANSPORT FOR LONDON (TfL)

No response received to formal consultation, which closed on 13 June 2018. Any response to be reported verbally.

However, TfL have written previously advising that they object to shared use of the bay by taxi's and servicing vehicles for the following reasons:

1. Due to high traffic flows and poor visibility turning in and out, the proposed loading use would be likely to increase the risk of conflicts and collisions, especially between motorised vehicles and vulnerable highway users such as pedestrians and cyclists;
2. The City Council's own policy (S42 of the City Plan) requires that on-street servicing and delivery needs are met in such a manner that they minimise effects on other highway and public realm users and other residential or commercial activities. In their view, this policy would be best met through on-street servicing from Harcourt Street;
3. Servicing for the existing building already takes place from Harcourt Street in an uncontrolled manner and this application provides an opportunity for the City Council to control its amenity impact through a Traffic Management Order (TMO); and
4. TfL do not support the removal of healthy trees from the TLRN.

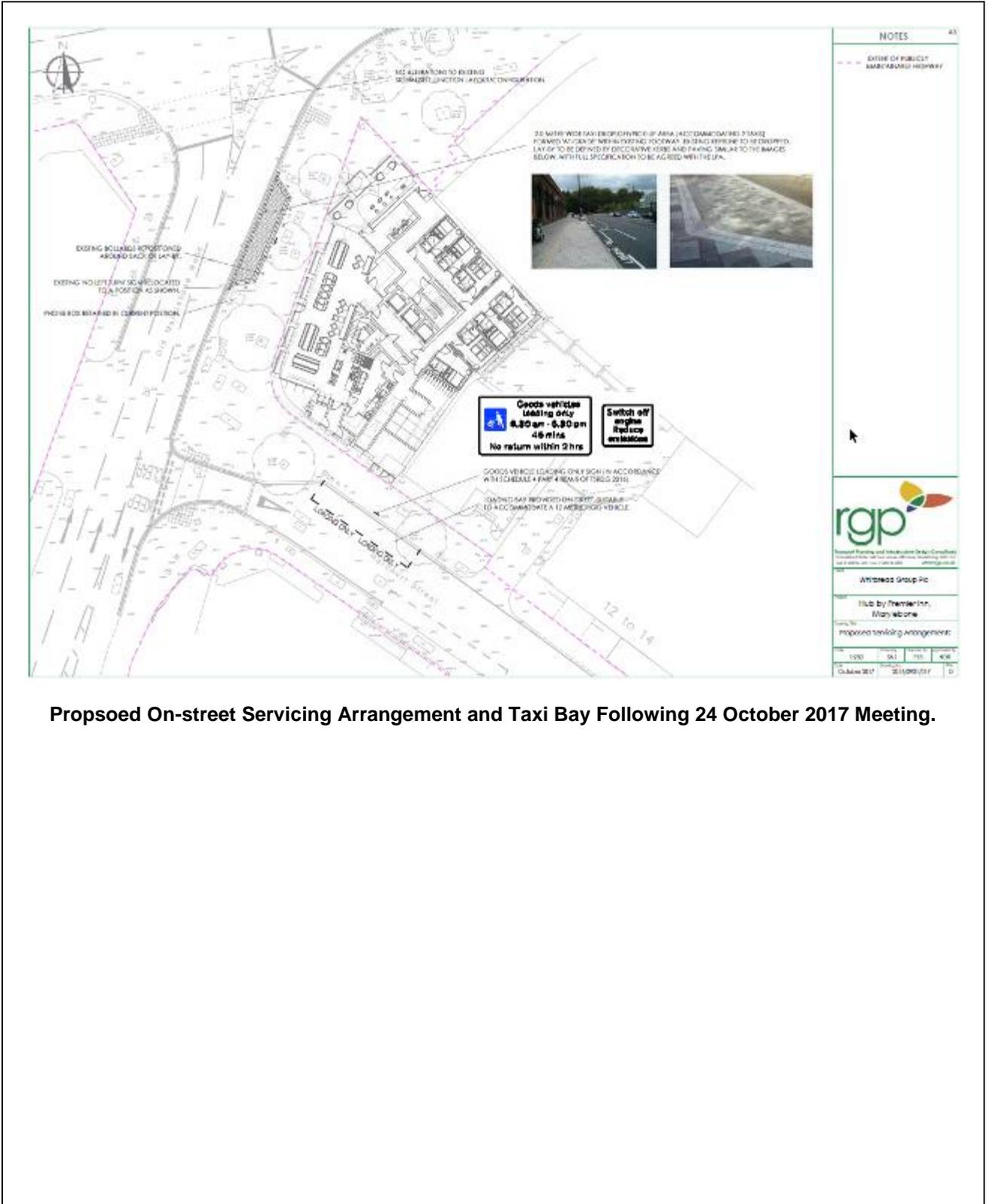
### HIGHWAYS PLANNING MANAGER

No objection, subject to condition securing Servicing Management Plan, including the use of a trained and authorised banksman.

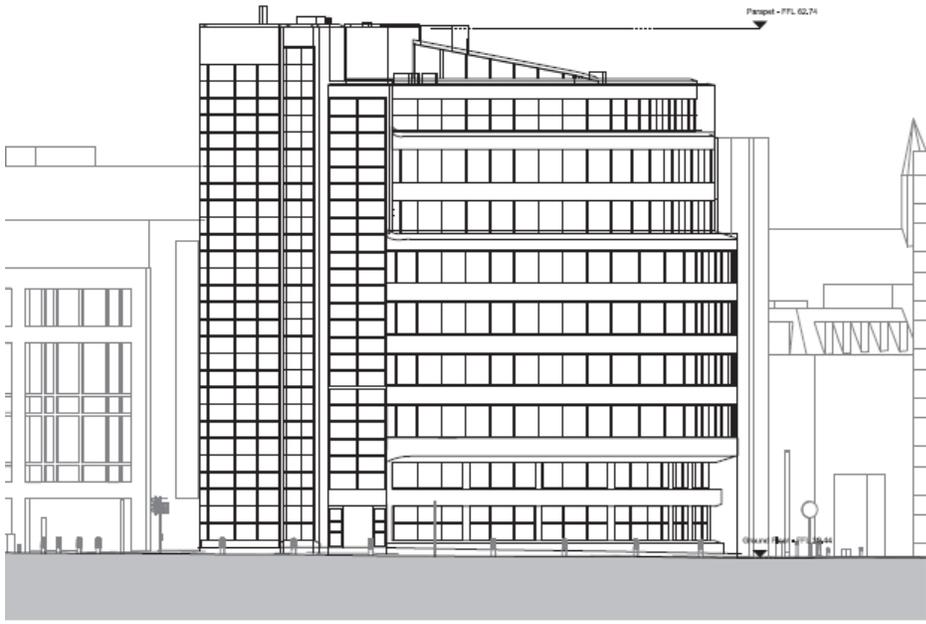
(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: OLIVER GIBSON BY EMAIL AT [ogibson@westminster.gov.uk](mailto:ogibson@westminster.gov.uk).

## 8 KEY DRAWINGS



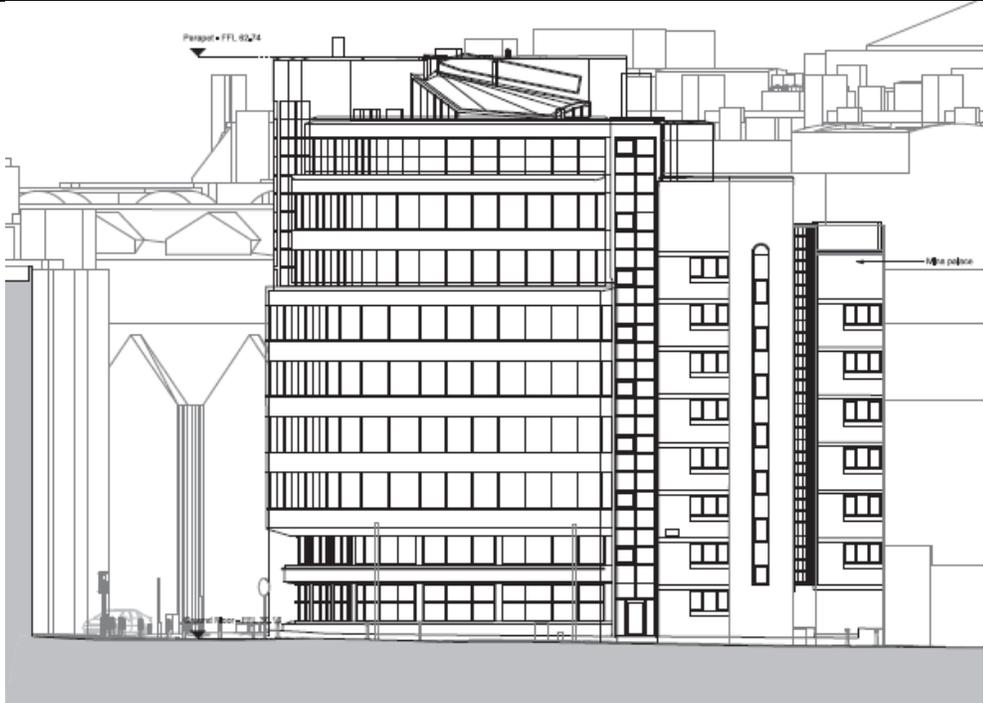
Proposed On-street Servicing Arrangement and Taxi Bay Following 24 October 2017 Meeting.



**Existing Old Marylebone Road (North West) Elevation**



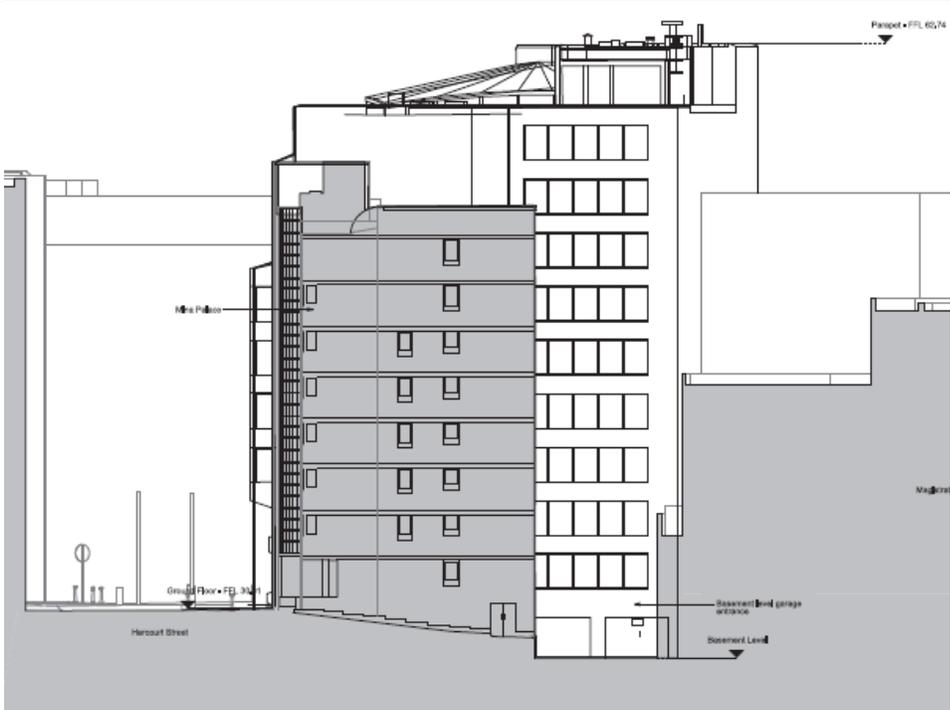
**Proposed Old Marylebone Road (North West) Elevation**



**Existing Harcourt Street (South West) Elevation**



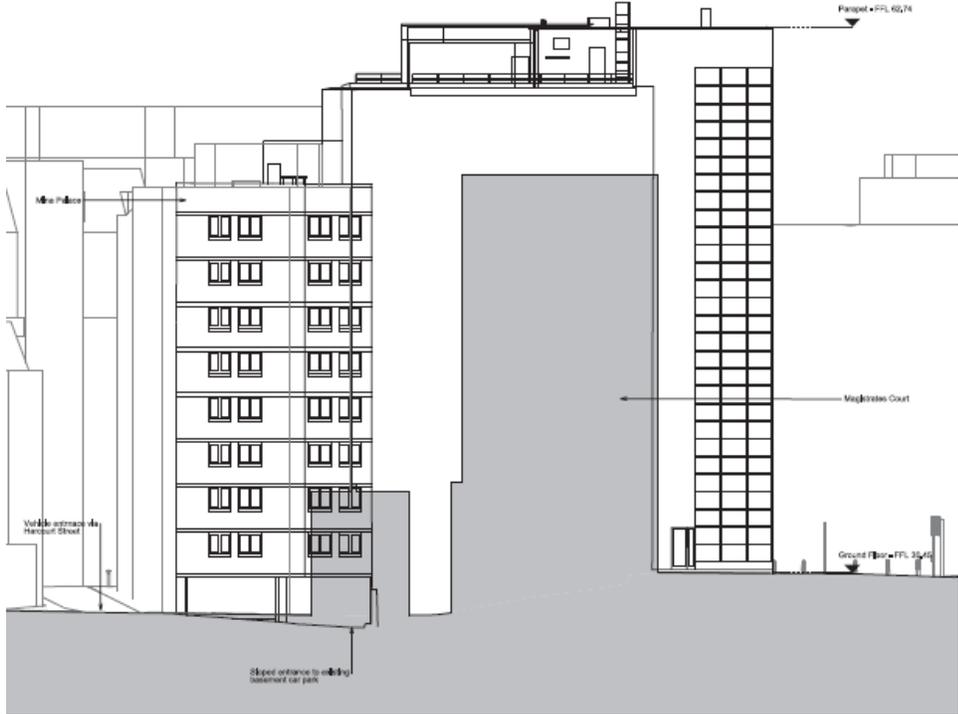
**Proposed Harcourt Street (South West) Elevation**



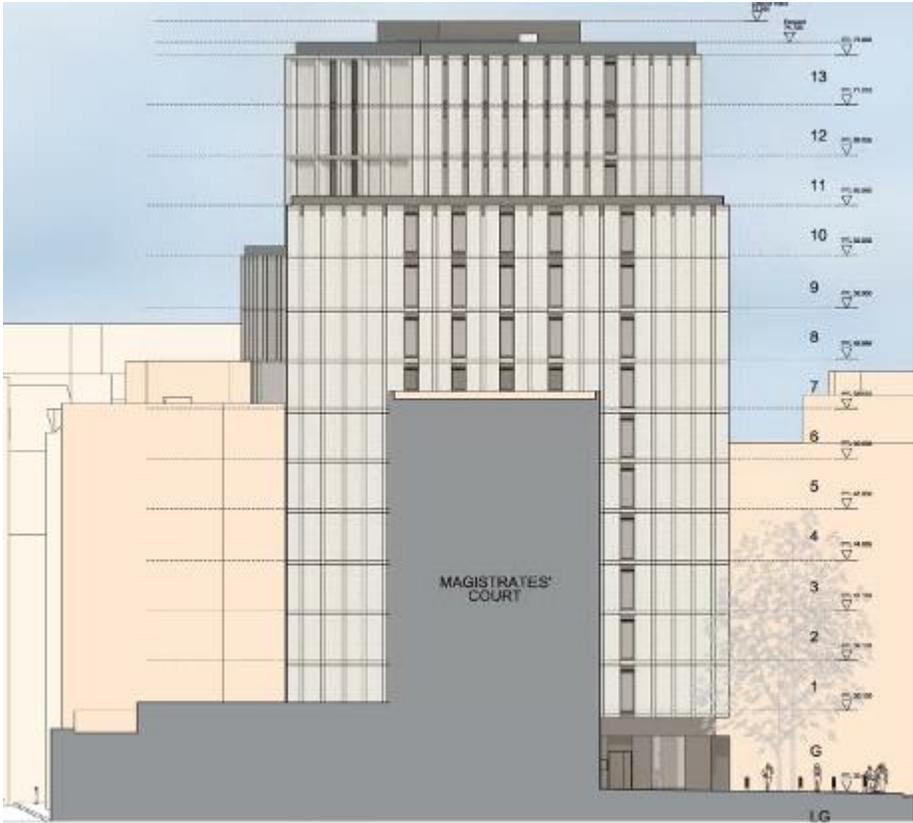
**Existing South East Elevation**



**Proposed South East Elevation**

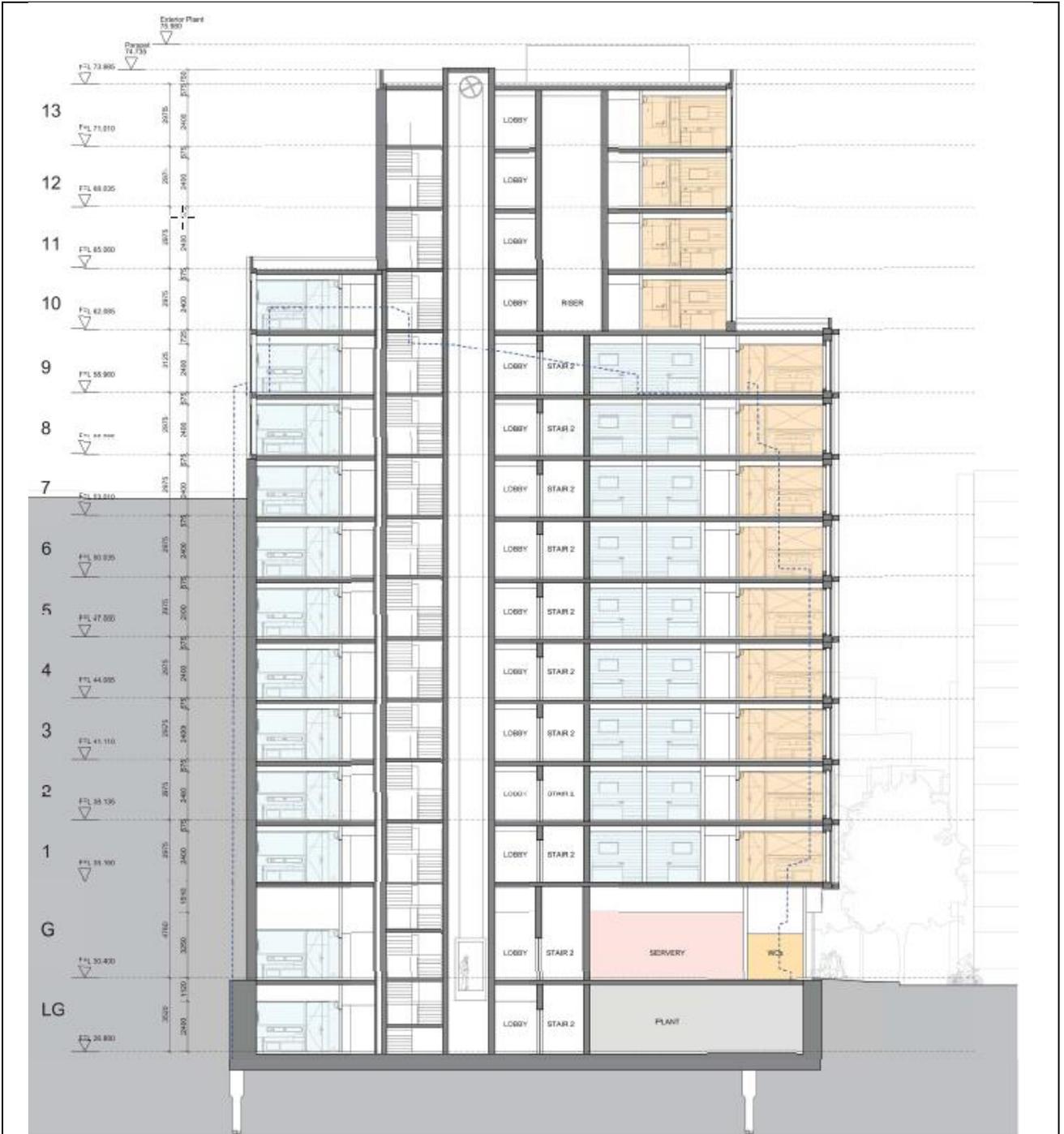


**Existing North-East Elevation**



**Proposed North-East Elevation**





Proposed Section



**Visuals of Proposed Development from Old Marylebone Road**



CITY OF WESTMINSTER

# MINUTES

## Planning Applications Sub-Committee (1)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning Applications Sub-Committee (1)** held on **Tuesday 27th February, 2018**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

**Members Present:** Councillors Richard Beddoe (Chairman), David Boothroyd, Susie Burbridge and Tim Mitchell

#### **4 WESTCOURT HOUSE, 191 OLD MARYLEBONE ROAD, LONDON, NW1 5DZ**

Redevelopment of the site to provide hotel (Use Class C1) with ancillary ground floor cafe / restaurant in 13 storey building.

A late representation was received from Whitbread Group PLC (Undated).

The presenting officer tabled the following revision to 1e) of the recommendation:

“1e) In the event that the three Ginkgo trees need to be removed within 50 years from the date of this permission, a financial contribution of £135,000 (index linked) toward street tree planting on Old Marylebone Road payable to ~~££~~; Westminster City Council.”

#### **RESOLVED:**

That conditional permission be deferred with the Sub-Committee minded to grant, subject to the loading bay being relocated from Harcourt Street to Old Marylebone Road and if necessary enlarged through the loss of two Ginkgo trees. Following discussions between officers and the applicant the application to be brought back to the Planning Sub-Committee for determination.

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 27 February 2018	<b>Classification</b> For General Release	
<b>Addendum Report of</b> Director of Planning		<b>Ward(s) involved</b> Bryanston And Dorset Square	
<b>Subject of Report</b>	<b>Westcourt House , 191 Old Marylebone Road, London, NW1 5DZ</b>		
<b>Proposal</b>	Redevelopment of the site to provide hotel (Use Class C1) with ancillary ground floor cafe / restaurant in 13 storey building.		
<b>Agent</b>	Miss Suzanne Crawford		
<b>On behalf of</b>	Whitbread Group PLC		
<b>Registered Number</b>	17/04194/FULL	<b>Date amended/ completed</b>	17 May 2017
<b>Date Application Received</b>	12 May 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	None		

## 1. RECOMMENDATION

2. Subject to referral to the Mayor of London, grant conditional permission, subject to a section 106 agreement to secure:
- j) A financial contribution of £45,000 (index linked and payable on commencement of development) for the expansion of a nearby cycle hire docking station;
  - k) A financial contribution of £25,000 (index linked and payable on commencement of development) toward wayfinding (Legible London);
  - l) A financial contribution of £27,239 (index linked and payable on commencement of development) toward the funding of Crossrail;
  - m) A financial contribution of £35,000 (index linked and payable on commencement of development) toward bi-annual pruning of the three Ginkgo trees on Old Marylebone Road by TFL and for a period of 50 years from the date of this permission;
  - n) In the event that the three Ginkgo trees need to be removed within 50 years from the date of this permission, a financial contribution of £135,000 (index linked) toward street tree planting on Old Marylebone Road payable to TFL;
  - o) Payment of the cost of highway works associated with the development on Old Marylebone Road and Harcourt Street;
  - p) Offering local employment opportunities during construction and operation of the hotel;
  - q) The provision, monitoring and review of a travel plan; and
  - r) Payment of cost of monitoring the agreement (£500 per head of term).
2. If the S106 legal agreement has not been completed within 6 weeks then:

- c) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;
  - d) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.
3. That Committee authorises the making of a draft order pursuant to s247 of the Town and Country Planning Act 1990 for the stopping up of parts of the public highway and creation of new public highway to enable this development to take place. That the Director of Planning, Executive Director of City Management, or other such proper officer of the City Council responsible for highway functions, be authorised to take all necessary procedural steps in conjunction with the making of the orders and to make the orders as proposed. The applicant will be required to cover all costs of the Council in progressing the stopping up orders

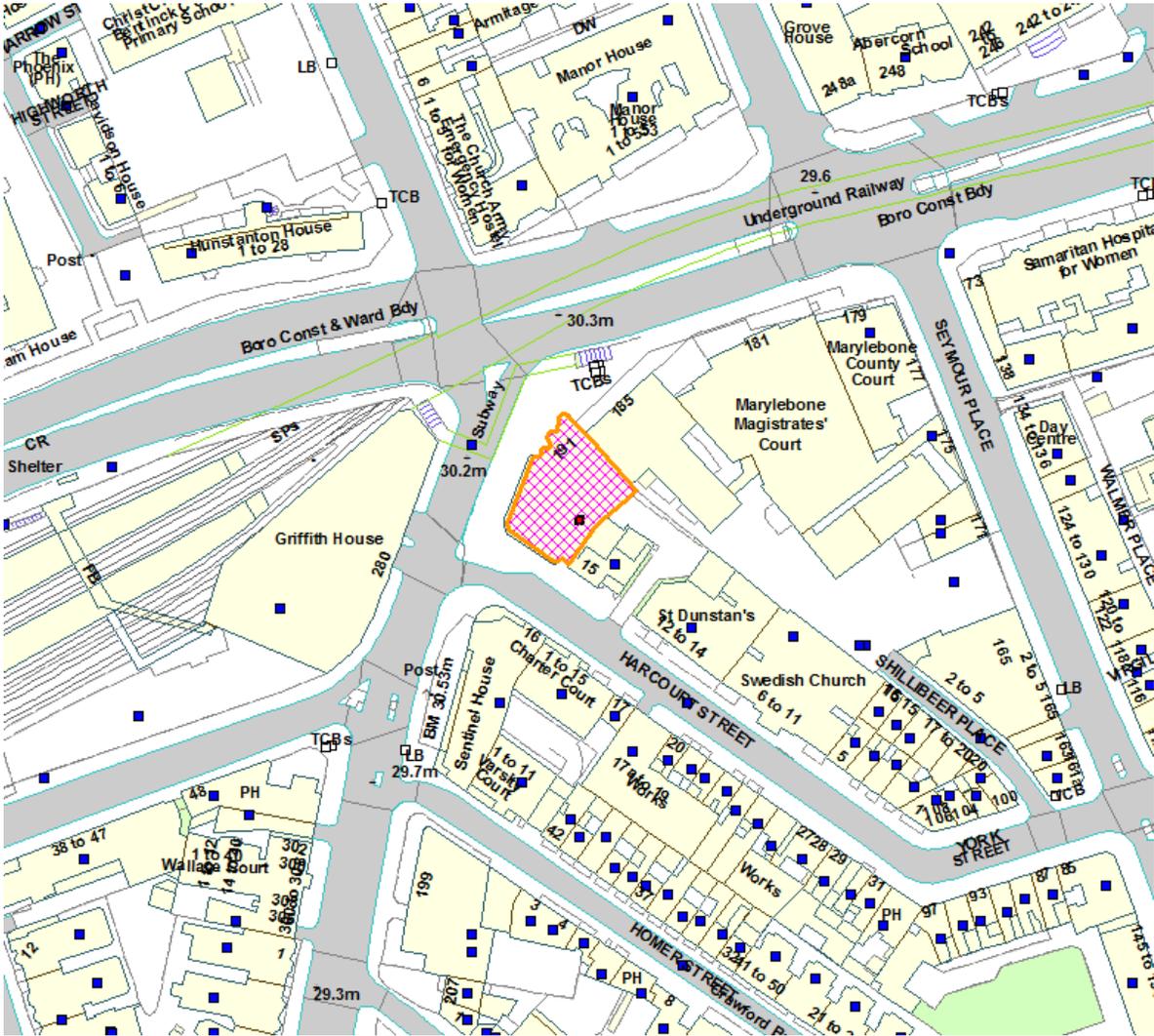
## 2. SUMMARY

This application was reported to the Planning Applications Sub-Committee on 24 October 2017. The Committee resolved to defer the application for the applicant to reconsider the following:

1. revising the proposal to provide off-street servicing at ground floor level;
2. the location/provision of coach and car/taxi drop-off and access;
3. retention or replacement of the three Ginkgo trees on Old Marylebone Road that are owned by TfL; and
4. ensuring employment opportunities for Westminster residents.

The applicant has provided additional supporting information as requested by committee and this is discussed in detail in the main body of this report. The application is therefore reported back to committee for consideration.

3. LOCATION PLAN



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4. PHOTOGRAPHS



**Application site as seen from Marylebone Road**



**Application site as seen from Harcourt Street and Marylebone Road intersection.**

## 5. CONSULTATIONS

ADDITIONAL REPRESENTATIONS RECEIVED AFTER REPORT FOR 24 OCTOBER 2017 MEETING WAS PUBLISHED AND CIRCULATED TO MEMBERS PRIOR TO THE COMMITTEE MEETING (BLUES)

### Applicant's Agent

Details in support of their application and discussed below.

LATE REPRESENTATIONS RECEIVED AFTER REPORT FOR 24 OCTOBER 2017 MEETING WAS PUBLISHED AND CIRCULATED TO MEMBERS AT THE COMMITTEE MEETING (REDS)

### Applicant's Agent

Memo addressing officer comments in report in relation to the hotel use in this location, the height of the proposed building, tree removal and replacement and the proposed on-street servicing strategy.

### Transport for London

Letter requesting that the three Ginkgo trees at the front of the site are retained and requesting a £35,000 contribution toward bi-annual pruning of these trees. In the event that these trees do die, they request a payment in lieu to provide for their replacement.

REPRESENTATIONS RECEIVED AFTER COMMITTEE MEETING OF 24 OCTOBER 2017

### Transport for London (TFL)

Welcome confirmation from the applicant that the scheme will be delivered with the trees on Old Marylebone Road initially retained in situ. The applicant has also committed to accepting the following:

- The trees are retained in situ adjacent to the new structure proposed to give them an opportunity to survive.
- As part of the section 106 agreement for the development, the applicant pays TfL £35,000 for bi-annual pruning of the trees for 50 years. In the event that the trees need to be removed, the section 106 agreement should provide for compensation, removal costs and funding for replacement trees as previously proposed.

TFL object to any servicing taking place from Old Marylebone Road and consider that the development clearly needs a formally designated servicing area for vehicles to stop and make deliveries. TFL consider that the number of expected servicing movements is low in the context of existing local traffic conditions.

In principle, TFL consider changing the loading bay on Old Marylebone Road (northbound, prior to the junction with Chapel Street) so it can also be used by coaches is acceptable. Further capacity study and discussion will be required with TfL and the changes to on-street parking need to take place as part of the S278 process.

TfL supports the applicant's proposal for taxi pick up/drop off from Old Marylebone Road subject to further discussions post-determination to agree the detailed design and funding of a section 278 agreement. Request that this is secured via the section 106 agreement.

#### Highways Planning Manager

Objection to absence of off-street servicing.

#### Adjoining Owners/Occupiers and Other Representations Received

Two objections have been received. In summary, they raise the following issues:

- Concern at the proliferation of hotels in this area, exacerbated by short term letting of residential units in the area;
- Concern that this hotel is aimed at the "cheaper end of the tourist market" and that this will result in anti-social behaviour in the area;
- The increased height of the building will affect the balance between the residential and business character of the area;
- Vehicles servicing the hotel will cause a major disruption to traffic flow by blocking the red route flow and buses pulling away from the adjacent bus stop;
- The hotel will increase pedestrians in the area and therefore the risk of increased congestion and accidents;
- Increased vehicular and pedestrian traffic will increase congestion in Chapel, Cabbell and Transept Streets;
- Increased vehicle and pedestrian traffic will add to noise levels, pollution and accident risk to resident families and children and to tourists;
- Taxis dropping off guests, delivery vans and service vans will block on-street parking spaces; and
- Demolition would be a nuisance for the neighbourhood, with lorries, deliveries and constant noise.

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

See report for 24 October 2017 meeting.

### **6.2 Recent Relevant History**

See report for 24 October 2017 meeting.

## **7. THE PROPOSAL**

These applications were reported to the Planning Applications Sub-Committee on 24 October 2017. The Sub-Committee resolved to defer the application for the applicant to reconsider the following:

1. revising the proposal to provide off-street servicing at ground floor level;
2. the location/provision of coach and car/taxi drop-off and access;
3. retention or replacement of the three Ginkgo trees on Old Marylebone Road that are owned by TfL; and
4. ensuring employment opportunities for Westminster residents.

## 8. DETAILED CONSIDERATIONS

Taking the reasons for deferral in turn, the applicant has amended the proposal or provided further justification as set out below:

### 8.1 Off-Street Servicing

The applicant has not provided off-street servicing as requested by the Sub-Committee. Instead, the applicant has provided further justification for not providing off-street servicing.

The applicant advises that they are unable to provide off-street servicing for the following reasons:

- A legal covenant prohibits vehicles with a wheel load of greater than five tonnes from using the rear access to the site;
- The proposed development must provide a UKPN sub-station at ground floor level. This is located at ground floor level on the Harcourt Street side of the building, in the only location where an off-street servicing bay can be provided given TFL's objection to any servicing from Old Marylebone Road. This sub-station must also be accessible to UKPN from the street and therefore cannot be moved;
- The introduction of a servicing bay in the Harcourt Street elevation would harm the character and appearance of this building by introducing a large void and roller door in the ground floor façade;
- If delivery vehicles were to reverse into a loading bay on this part of the site, they would conflict with vehicles turning into Old Marylebone Road. If delivery vehicles, including smaller 8.3 tonne vehicles, were required to turn on-site this would result in an unacceptable ground floor layout, loss of a large number of hotel rooms and require the ground floor ceiling heights to be increased to 4.5m or greater from the currently shown 3m, thus increasing the overall height of the building by approximately 1.5m; and
- Compared against the lawful office use on-site, the proposed hotel use would result in a reduction of 35 two-way Large Goods Vehicle (LGV) movements and only an additional 2 two-way Heavy Goods Vehicle (HGV) movements a day. This is a net reduction of 33 two-way movements by goods vehicles using Harcourt Street. The proposed development is therefore an improvement insofar as it reduces on-street servicing compared to the lawful office use of the site.

Following discussion with officers, the applicant has also explored the possibility of utilising the proposed taxi bay on Old Marylebone Road (discussed below) to accommodate delivery and servicing activity, using an 8.3m rigid vehicle. The taxi bay

would have to be enlarged to accommodate servicing vehicles and it was found that this would result in the following issues:

- The enlarged bay would be more costly, requiring the relocation of at least one utility chamber;
- The enlarged bay is very close to the existing phone booth, which could be impacted;
- Footway widths are reduced along the site's frontage, which TfL may have concerns with. Bollards would also need to be positioned outside the vehicle track/overhang further reducing effective footway widths;
- The enlarged bay would encroach further into the Root Protection Area of the central Ginkgo tree along Old Marylebone Road, necessitating its removal. As discussed below, these trees are to be retained, at the request of TFL;
- The use of the bay for delivery and servicing activity would require the canopy of the Ginkgo trees to be lifted significantly to accommodate high side vehicles; and
- The travel distance between the taxi bay and the goods entrance is approximately 37m. This is a greater distance than currently proposed by the servicing bay on Harcourt Street, and as such would impact on highway users, increasing the potential for goods to conflict with pedestrians and impede their movement. This in turn would reduce the ability to efficiently deliver goods and supplies.

Given the above, the applicant has discounted the use of the taxi bay for servicing.

The applicant has confirmed that they remain committed to provision of an on-street servicing bay on Harcourt Street and a condition requiring a Servicing Management Plan (SMP), as set out in the original officer's report.

The Highways Planning Manager objects to the proposed servicing arrangement. It is unclear what benefit the on-street loading bay will have to all highway users (including residents who are able to park on the single yellow line outside of controlled hours currently) or how it will mitigate the impact of the development on other highway users, as opposed to other on-street restrictions which would allow for a more flexible and efficient use of the limited highway space. It is also unlikely that the Highway Authority would implement a loading bay on Harcourt Street. Furthermore, the applicant is indicating a need for 45 minutes loading time, whereas the standard on-street for continuous loading in Westminster is 40 minutes. The hours for the loading bay (0830 to 1830 – 7 days) is excessive, given the applicants position that they are able to rigorously control the servicing of the hotel. These variations are unexplained but further highlights the demands of the proposed development on highway space, as well as the length of time pedestrians will face disruption.

The Highways Planning Manager also notes that it is unclear why bollards are being retained/relocated to provide for the proposed taxi bay. A more holistic highway/public realm scheme could reduce street clutter (including the developer working with the telecommunication company to remove the telephone kiosk). A wider scheme would assist in mitigating the impact of the development on the highway required to support the proposed development. Further, with a wider scheme, on-street servicing could be accommodated on Old Marylebone Road (using a slightly longer loading pad and revised ground floor layout). Given the applicants own taxi and low servicing figures, any potential conflict between the times of servicing and peak taxi arrival and departures could be managed. This approach would have the added advantage of removing

servicing activity from Harcourt Street and its approach roads. While this may require some further intervention with existing utility provision within the highway, this is expected and a very common part of construction of new buildings in Westminster and it is unclear why this cannot be pursued in this instance.

Whilst the Highways Planning managers concerns are understood, paragraph 32 of the NPPF states that “*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*”. In this instance, the impact of on-street servicing is unlikely to be severe given the small number of servicing trips anticipated and the ability to provide some mitigation via the recommended condition requiring an updated and site specific Servicing Management Plan. On balance, and whilst it is regrettable that the applicant has not amended the development to provide for on-site servicing, refusal of this application on this basis would not be sustainable.

## **8.2 Location/provision of Coach and Car/taxi Drop-off and Access**

The applicant has agreed in principle with TFL that the existing on-street loading bay on Old Marylebone Road (northbound, prior to the junction with Chapel Street), can be amended to a dual use bay to allow coach drop off for a maximum of 20 minutes. Once pick-up and drop-off is complete, the coach will proceed to a dedicated coach parking area nearby. Notwithstanding this, the applicant states that the hotel is unlikely to receive coach arrivals as it is not part of their business model to source bookings in this way.

With regards to taxi's the applicant proposes a taxi-bay adjacent to the site on Old Marylebone Road and this has been agreed with TFL. This taxi bay would be inset and would not impede vehicle or pedestrian traffic flow on Old Marylebone Road.

Given the above, the applicant has addressed the Sub-Committees concerns. It is recommended that provision for enlargement of the existing loading bay and a taxi bay is secured through the section 106 agreement.

## **8.3 Retention of the Ginkgo Trees on Old Marylebone Road.**

The applicant has agreed with TFL to retain the three Ginkgo trees and give them an opportunity to survive. The applicant has also agreed to pay TFL a commuted sum of £35,000 for bi-annual pruning of these trees for a 50-year period. In the event that these trees do need to be removed, as agreed in writing by the City Council, TFL and the applicant (or a future landowner of the site), the applicant agrees to pay TFL £135,000 for their loss, removal costs and funding for replacement trees.

To safeguard these trees during construction, the applicant also agrees to a condition requiring an Arboricultural Method Statement ('AMS') and this condition is recommended. Given the above, the applicant has addressed the Sub-Committees concerns.

## **8.4 Employment Opportunities for Westminster residents.**

The applicant has confirmed that they are committed to providing employment opportunities for local residents and it is recommended that this is secured via the section 106 agreement. Accordingly, the applicant has addressed the Sub-Committees concerns.

## **8.5 London Plan**

See report for 24 October 2017 meeting.

## **8.6 National Policy/Guidance Considerations**

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

## **8.7 Planning Obligations**

The draft 'Heads' of agreement are proposed to cover the following issues:

- a) A financial contribution of £45,000 (index linked and payable on commencement of development) for the expansion of a nearby cycle hire docking station;
- b) A financial contribution of £25,000 (index linked and payable on commencement of development) toward wayfinding (Legible London);
- c) A financial contribution of £27,239 (index linked and payable on commencement of development) toward the funding of Crossrail;
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- f) Payment of the cost of highway works associated with the development on Old Marylebone Road and Harcourt Street;
- g) Offering local employment opportunities during construction and operation of the hotel;
- h) The provision, monitoring and review of a travel plan; and
- i) Payment of cost of monitoring the agreement (£500 per head of term).

The subject building is vacant and appears to have been for some time. The proposed development may therefore not be subject to an exemption for the existing floor space on-site. Accordingly, and subject to any other relief or exemption available to the applicant, the estimated Westminster CIL payment would be £1,119,300.00. An additional estimated CIL payment of £373,100.00 would be payable to the Mayor.

## **8.8 Environmental Impact Assessment**

See report for 24 October 2017 meeting.

## **8.9 Other Issues**

Subsequent to the 24 October 2017 meeting, additional objections to the development have been received. The issues raised are largely addressed in the officer's original report and in this report. However, the following is also noted:

**8.9.1 Concern at the proliferation of hotels in this area, exacerbated by short term letting of residential units in the area.**

As set out in the original officer's report, the location of a hotel in this area is acceptable in terms of the development plan. Concerns with regards to short term letting are an enforcement issue.

**8.9.2 Concern that this hotel is aimed at the "cheaper end of the tourist market" and that this will result in anti-social behaviour in the area.**

This is not a material planning consideration. Where anti-social behaviour does occur, this should be reported to the Metropolitan Police and the applicant to address.

(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: SARAH WHITNALL BY EMAIL AT [swhitnall@westminster.gov.uk](mailto:swhitnall@westminster.gov.uk).



CITY OF WESTMINSTER

# MINUTES

## Planning Applications Sub-Committee (1)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Planning Applications Sub-Committee (1)** held on **Tuesday 24th October, 2017**, Room 3.1, 3rd Floor, 5 Strand, London, WC2 5HR.

**Members Present:** Councillors Richard Beddoe (Chairman), David Boothroyd, Susie Burbridge and Tim Mitchell

#### **2 WESTCOURT HOUSE, 191 OLD MARYLEBONE ROAD, LONDON, NW1 5DZ**

Redevelopment of the site to provide hotel (Use Class C1) with ancillary ground floor cafe / restaurant in 13 storey building.

An additional representation was received from JLL (October 2017).

Late representations were received from JLL (October 2017) and Transport for London (24.1017).

**RESOLVED:** Deferred for the applicant to reconsider:

1. revising the proposal to provide off-street servicing at ground floor level;
2. the location/provision of coach and car/taxi drop-off and access;
3. retention or replacement of the three Ginkgo trees on Old Marylebone Road that are owned by TfL and
4. ensuring employment opportunities for Westminster residents.

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS SUB COMMITTEE</b>	<b>Date</b> 24 October 2017	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> Bryanston And Dorset Square	
<b>Subject of Report</b>	<b>Westcourt House, 191 Old Marylebone Road, London, NW1 5DZ</b>		
<b>Proposal</b>	Redevelopment of the site to provide hotel (Use Class C1) with ancillary ground floor cafe / restaurant in 13 storey building.		
<b>Agent</b>	Miss Suzanne Crawford		
<b>On behalf of</b>	Whitbread Group PLC		
<b>Registered Number</b>	17/04194/FULL	<b>Date amended/ completed</b>	17 May 2017
<b>Date Application Received</b>	12 May 2017		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	None		

## 1. RECOMMENDATION

1. Subject to referral to the Mayor Of London, grant conditional permission, subject to a section 106 agreement to secure:
  - a) A financial contribution of £45,000 (index linked) for the expansion of a nearby cycle hire docking station;
  - b) A financial contribution of £25,000 (index linked) toward wayfinding (Legible London);
  - c) A financial contribution of £27,239 (index linked) toward the funding of Crossrail;
  - d) A financial contribution of £135,000 (index linked) toward street tree planting on Old Marylebone Road;
  - e) Payment of the cost of highway works associated with the development on Old Marylebone Road and Harcourt Street;
  - f) Offering local employment opportunities during construction and operation of the hotel;
  - g) The provision, monitoring and review of a travel plan; and
  - h) Payment of cost of monitoring the agreement (£500 per head of term).
2. If the S106 legal agreement has not been completed by 5 December 2017 then:
  - a) The Director of Planning shall consider whether it would be possible and appropriate to issue the permission with additional conditions attached to secure the benefits listed above. If so, the Director of Planning is authorised to determine and issue the decision under Delegated Powers; however, if not;

- b) The Director of Planning shall consider whether the permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits which would have been secured; if so, the Director of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.
3. That Committee authorises the making of a draft order pursuant to s247 of the Town and Country Planning Act 1990 for the stopping up of parts of the public highway and creation of new public highway to enable this development to take place. That the Director of Planning, Executive Director of City Management, or other such proper officer of the City Council responsible for highway functions, be authorised to take all necessary procedural steps in conjunction with the making of the orders and to make the orders as proposed. The applicant will be required to cover all costs of the Council in progressing the stopping up orders

## 2. SUMMARY

The application site contains an eight storey plus basement office building at the junction of Old Marylebone Road and Harcourt Street. This building is unlisted and lies outside a conservation area, although the Portman Estate Conservation Area lies close to the east and the Lisson Grove Conservation Area lies to the north on the opposite side of Marylebone Road. There are also a number of nearby grade II listed buildings which lie to the south west and face onto Harcourt Street. The application site is also located within the Central Activities Zone (CAZ) and a CAZ frontage.

The applicant proposes demolishing the existing office buildings (Use Class B1) and construction of a hotel (Use Class C1). The proposed hotel would contain 294 bedrooms within a building comprised of three interlocking blocks 9, 10 and 13 storeys high. The ground floor would include a ground floor café/restaurant.

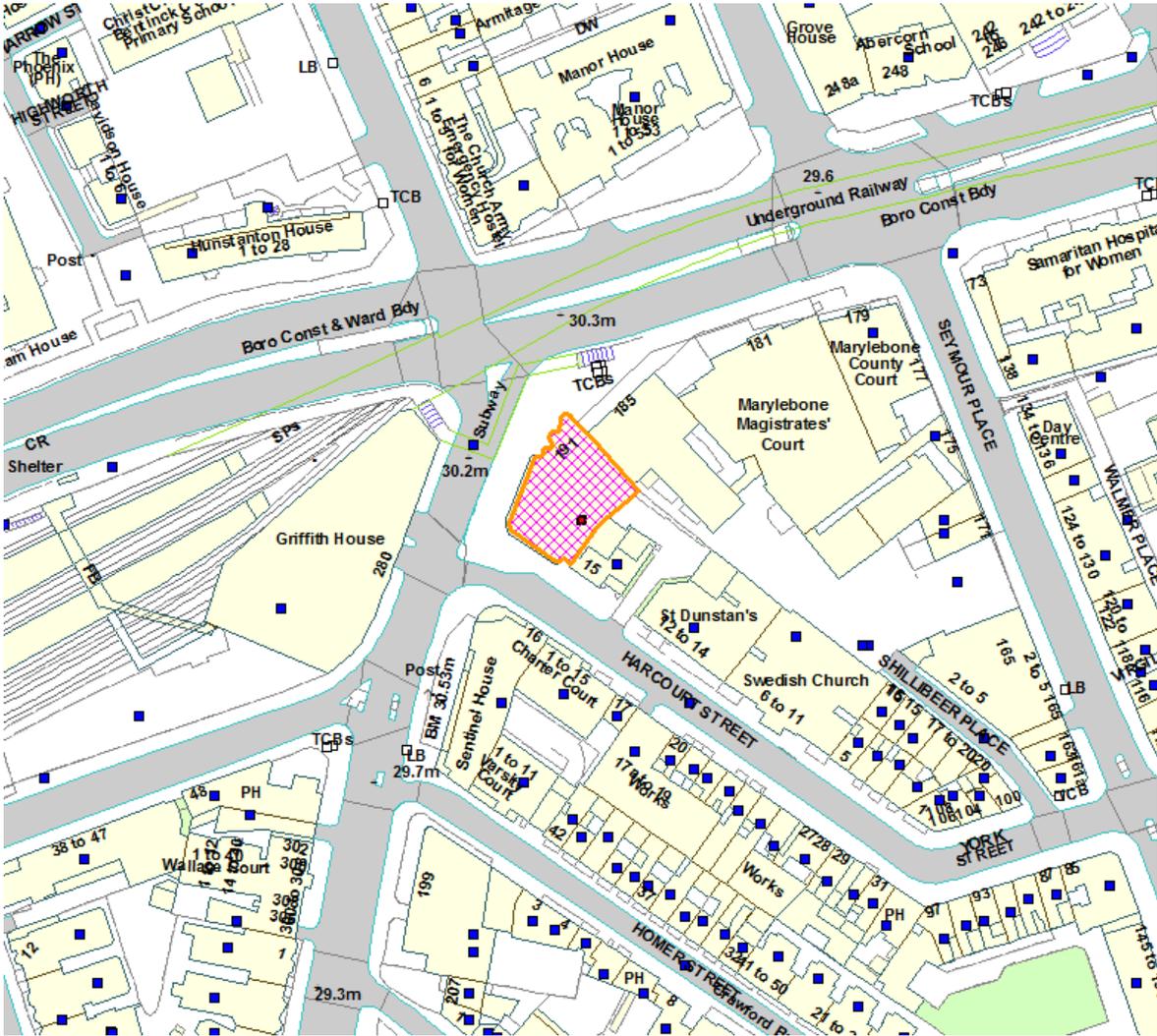
The key considerations are:

- Loss of office use and provision of hotel use;
- Impact on the character and appearance of the area;
- Impact on residential amenity;
- Impact on the highway, including loss and dedication of public highway; and
- Loss of street trees.

Officers have some concern with the height of the proposed building and the absence of off-street servicing and Transport for London object to the loss of three street trees on Old Marylebone Road. However, these objections are not considered sustainable.

On balance, the proposed development is considered to comply with the Unitary Development Plan (UDP) and City Plan (City Plan) and is therefore recommended for approval.

3. LOCATION PLAN



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4. PHOTOGRAPHS



**Application site as seen from Marylebone Road**



**Application site as seen from Harcourt Street and Marylebone Road intersection.**

## 5. CONSULTATIONS

### GREATER LONDON AUTHORITY (GLA)

The proposed hotel in this accessible location in the CAZ is supported and the loss of office space is acceptable. The height, massing and high quality architecture is supported, although there is a concern over the loss of street trees, which requires further justification. There would be no harm to heritage assets. A contribution of £45,000 should be secured towards the expansion of the nearby cycle hire docking station.

### WARD COUNCILLORS FOR BRYANSTON AND DORSET SQUARE

Any response to be reported verbally.

### WARD COUNCILLORS FOR CHURCH STREET

Any response to be reported verbally.

### ARBORICULTURAL MANAGER

Subject to TFL's comments, the removal of three Ginkgos on Marylebone Road would be regrettable. However any major redevelopment of this building would require their removal so if there are overriding planning reasons for supporting redevelopment of this site, then I think that the removal of the trees could be justified if large replacements could be provided and they can be planted without conflict with the building or road.

### HIGHWAYS PLANNING MANAGER

Object to the absence of off-street servicing and coach and taxi parking for the proposed hotel; unsatisfactory cycle parking provision and changes to the building line.

### ENVIRONMENTAL HEALTH OFFICER

Subject to recommended conditions, the proposed building should be able to provide satisfactory noise and vibration levels for occupiers.

A phase one contamination report has been provided. A condition is recommended requiring further site investigation and, if required, submission of a remediation strategy should contamination be encountered.

The proposed development is situated within an area of poor air quality, mitigation measures are considered necessary to protect future occupiers. During construction, the Site Environmental Management Plan (SEMP) should explain how impacts on air quality will be mitigated. During the operational phase, conditions should be imposed requiring mitigation measures such as sealed external windows, mechanical ventilation and no gardens, balconies, seating or external amenity areas to be provided at basement, ground or first floor levels.

The Ventilation Strategy Report dating May 2017, notes that the CHP will be run to the main roof (level 14) and terminates above the roof. It is unclear from the plans on the precise proposed location of the flue for the proposed energy centre. This must be clearly cited to ensure suitable dispersion of emissions. The details of the discharge flues should be required by condition.

A construction Site Environmental Management Plan should be sought in the Code of Construction Practice Agreement (COCP) to control the environmental impacts of the construction phase including noise, vibration and dust. The hours of construction should also be controlled by way of condition.

#### WASTE PROJECT OFFICER

Object. The applicant has proposed a waste store within the ground floor level with on-street waste servicing on Harcourt Street. There was no waste management strategy detailing waste generation estimate and storage capacity that will be required for residual waste and recyclable materials. Therefore, the applicant has not demonstrated that waste and recyclable materials will be managed in line with the Westminster City Council Recycling and Waste Storage Requirements.

#### LONDON UNDERGROUND LIMITED

No objection, subject to condition to secure protection of the existing underground network adjacent to the site.

#### TRANSPORT FOR LONDON

Removal of three trees to the northern frontage is unacceptable. There are no suitable planting locations on this part of Old Marylebone Road given the high number of services within the pavement and a payment for their replacement is unacceptable. Recommend that building line is pulled back to allow for trees to be retained. Further discussion is needed for an amendment to the scheme to prevent their removal and tree protection conditions imposed for the demolition, site clearance and construction phases.

Object to use of Old Marylebone Road for coach and taxi pick-up and drop-off.

Should permission be granted, contributions toward wayfinding (Legible London - £25,000) and cycle hire docking station (£45,000) should be sought. Conditions requiring Construction Logistics Plan, Delivery & Servicing Management Plan and Travel Plan requested.

#### HISTORIC ENGLAND (ARCHAEOLOGY)

Although the site is not located in an Archaeological Priority Area (APA), it is approximately 200m east of the Watling Street APA. Old Marylebone Road was also the location of Lisson Manor House and medieval and post-medieval deposits and features have been recorded in the vicinity previously. Recommend a condition requiring a programme of archaeological work to fully investigate this potential and record any remains present.

#### MARYLEBONE ASSOCIATION

Object. The principle of a hotel use on this site is welcome. However, there are concerns about the height of the proposals when viewed in context. Whilst this is a prominent corner site that can accommodate a statement scheme, the massing when viewed within the context appears overbearing and the central section of the proposals appears disproportionately tall. They would like to see further consideration on the heights.

Consideration should be given to the area at ground floor where there is a bike store, and which may attract anti-social behaviour given it is slightly tucked out of view and that the restaurant may not always be able to provide natural surveillance.

Should permission be granted, an exemplary Construction Traffic Management Plan should be required to ensure that already congested roads are not exacerbated.

#### THE ST MARYLEBONE SOCIETY

Strongly regret the proposed demolition of the interesting existing 1983 “High Tech” red clad building by GMW, which responds very well to site and context, has an varied profile and good massing, and turns the corner beautifully on this prominent site. Any building on this site will be visible from afar from many directions and should be a fine piece of architecture from all directions.

While the main facades have developed somewhat during the consultation period, the other facades are treated purely as extrusions from plan which protrude uncomfortably from the surrounding lower buildings – including the magistrates court, which should have more “weight” as an important local public building. The rigidity of the hotel room module contributes significantly to the ugliness of the extruded forms.

Rather than using the existing general roof level as the “height” of the new building, the developer takes the highest point of the stair tower as a baseline and then adds 3 extra floors. Any replacement building should be no higher on average than the existing general roof level. They reject the viability argument for several extra floors: the developers knew what the site could bear when they purchased it. The proposal is too high and too bulky.

No objection to the use of the building as a hotel. However, we note that there are issues with deliveries in Harcourt Street. Residents of smaller streets should not have their quality of life degraded by oversized delivery trucks. The idea of a public coffee bar at ground floor level is appealing, but it actually seems to be very small, and we wonder whether there will ever be room for the public as well as for guests.

#### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 1439  
Total No. of replies: 22  
No. of objections: 21  
No. in support: 1

In summary, the objectors raise the following issues:

##### Character and Appearance

- The proposed building is too tall and out of keeping with the height of adjacent buildings and/or the area;
- The height of the proposed building would set a new precedent for building heights in the area;
- The proposed building would affect the setting of nearby listed buildings and/or conservation areas;

### Amenity

- The proposed building will block light
- The height of the proposed building will allow for additional overlooking of neighbouring or nearby properties;
- Proposal would overshadowing the garden terrace to the rear of the Swedish Church;
- The proposal would result in loss of light to Sentinel House;

### Highways

- The proposed hotel will generate additional traffic at the intersection of Harcourt Street and Old Marylebone Road;
- The proposed development would result in loss of parking spaces for residential accommodation servicing the Embassy of the People's Republic of China;
- Access and servicing during construction and operation of the proposed hotel would take place directly in front of and cause congestion and noise outside residential accommodation servicing the Embassy of the People's Republic of China;
- Delivery and servicing for the proposal would conflict with similar arrangements for Sentinel House;

### Other

- The granting of a late license in conjunction with other premises would turn the area into a largely commercial zone;
- Party wall issues;
- The proposed development may put at risk the personal safety and security of residents in neighbouring residential accommodation for the Embassy of the People's Republic of China;
- The applicant needs to confirm that the bollards to the front of the building will be retained;
- The applicant will need to liaise with the adjacent magistrates courts on-site manager in relation to additional security at ground floor level and during construction;
- Obscure windows should be introduced where they overlook the Magistrates' Court; and
- There are already too many hotels in the area.

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## **6. BACKGROUND INFORMATION**

### **6.1 The Application Site**

The application site contains an eight storey plus basement office building at the junction of Old Marylebone Road and Harcourt Street. This building is unlisted and lies outside a conservation area, although the Portman Estate Conservation Area lies close to the east and the Lisson Grove Conservation Area lies to the north on the opposite side of Marylebone Road. There are also a number of nearby grade II listed buildings which lie

to the south west and face onto Harcourt Street. The application site is also located within the Central Activities Zone (CAZ) and a CAZ frontage.

## 6.2 Recent Relevant History

### 17/01235/EIASCR

Request for screening opinion in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2015 as amended for the demolition of the existing building and erection of a ground plus 13 storey building comprising 310 hotel bedrooms (Use Class C1), approximately 7,718.7 sqm GIA.  
EIA not required – 7 March 2017

### 84/02087/FULL

Demolition of existing buildings & erection of nine storey office & residential building with 13 s/c flats.  
Permission granted – 24 April 1985

## 7. THE PROPOSAL

The applicant proposes demolishing the existing office buildings (Use Class B1) and construction of a hotel (Use Class C1). The proposed hotel would contain 294 bedrooms within a building comprised of three interlocking blocks 9, 10 and 13 storeys high. The ground floor would include an ancillary café/restaurant.

The building's façade would comprise brick clad piers with polished pre-cast concrete curtain walls and lintels framing floor-to-ceiling windows above first floor level. The ground floor would include glazed elevations facing Marylebone Road and Harcourt Street to serve the ground floor café/restaurant. No on-site parking or loading facilities are proposed.

The following changes to floorspace on-site are proposed:

Use	Existing GIA (sqm)	Proposed GIA (sqm)	Change
Office	4986	-	-4986
Hotel	-	7462	+7462

## 8. DETAILED CONSIDERATIONS

### 8.1 Land Use

#### Loss of Existing Office

Whilst the London Plan (March 2016) (“the London Plan”) does not specifically protect office uses, policy 4.2 does support rejuvenation of the office stock within the CAZ in order to improve the quality and flexibility of office stock so that it can meet the distinct needs of the Central London market. Strategic policy also acknowledges the diverse range of uses that exist within the CAZ and that having a range of residential and visitor infrastructure uses within the CAZ helps to support its strategic function. Paragraph 2.3.5

of the CAZ SPG seeks to ensure that additional hotel provision does not constrain the availability of local employment and commercial floorspace, having regard to demand and viability.

Prior to the applicant acquiring the site, the building had been marketed for over a year with no interest from office operators, in part due to the office floorplates not being suitable for the current market. Furthermore, the site is not located in a core office location and transport and public realm improvements (including Crossrail) along Oxford Street and around Paddington is likely to further marginalise the office market in Marylebone, making the redevelopment of existing stock less attractive. It is also noted that commercial space will be re-provided in the form of the hotel and retail use, which would help to support the strategic function of the CAZ. The loss of office space on this site would not undermine the primary business function of the CAZ or any locally defined office market, nor would it adversely impact on the wider strategic function of the CAZ. As such, the loss of office space on this site would be consistent with the London Plan.

The reasoned justification to policy S20 of Westminster's City Plan (November 2016) ("the City Plan") notes concern with office losses throughout the City, although does note that losses of office to other commercial uses are acceptable as they contribute to commercial activity. Accordingly, the principle of losing this office space to another commercial use on this site would be consistent with policy S20 of the City Plan.

### Proposed Uses

Policy 4.5 of the London Plan directs hotel provision to Opportunity Areas and CAZ fringe locations with good public transport. The proposal would be consistent with this strategic policy objective.

This site is not located within an Opportunity Area, the Core CAZ, Named Streets or NWEDA/NWSPA where new hotels are directed (see policy S23 of the City Plan and TACE 2 of the Unitary Development Plan (adopted 2007) ("the UDP"). However, it is located within a CAZ Frontage which is deemed a Designated Shopping Centre within the City Plan. Policy S18 of the City Plan specifies that commercial development will be encouraged and directed toward, inter alia, Designated Shopping Centres. Accordingly, the proposed hotel use would be supported in principle.

The proposed café/restaurant use would be ancillary to the hotel and is therefore supported. A condition is recommended to ensure that it remains ancillary to the proposed hotel.

## **8.2 Townscape and Design**

The application site contains an unlisted office building that is outside a conservation area, although the Portman Estate Conservation Area lies close to the east; the Lisson Grove Conservation Area lies to the north on the opposite side of Marylebone Road; while the Dorset Square Conservation Area lies approximately 110m to the east, again on the north side of Marylebone Road. There are also a number of nearby listed buildings which include several grade II listed buildings to the south east, facing onto Harcourt Street and amongst which is the grade II Swedish Church, identified as a

landmark building within the Portman Estate Conservation Area Audit. On the north side of Marylebone Road, there are the grade II listed Manor House and the Abercorn School (former St Marylebone Grammar School), as well as the grade II\* former Christ Church on Cosway Street.

The existing building dates from the mid-1980s and was designed by GMW Architects. It is a nine storey building clad in red metal panels and bands of smoked and mirrored glass. It presents a prominent 10-storey curved turret stair to Marylebone Road. With its unlisted status and lying outside a conservation area, the building enjoys limited protection from demolition, however, it is not without architectural merit, noted by both Pevsner and by the Royal Fine Arts Commission. The latter commenting, that the completed building “came out unexpectedly well...dextrous handling of the masses and their articulation and consequent legibility” (RFAC, *What Makes A Good Building*, 1994). The architectural merits of the existing building are also noted by the St Marylebone Society in their consultation response.

The proposed replacement building would be articulated in three connected blocks, with an 11-storey block abutting the Westminster Magistrates’ Court and facing onto Marylebone Road; a 14-storey block facing onto Old Marylebone Road; and a 10-storey block facing onto Harcourt Street and abutting the neighbouring no.15 Harcourt Street (Mina Palace). The ground floor would include the hotel reception area and a café/restaurant space, with entrances onto Marylebone Road and Old Marylebone Road respectively. A service entrance is located on Harcourt Street, as is a new substation for the site.

All three component blocks present the same façade treatment with a regular grid and fenestration pattern revealing the modular nature of the hotel layout. Pre-cast concrete lintels express the floor plates, although wider vertical panels of brickwork provide the prevailing facing material. The windows are well recessed behind the brick and concrete grid, providing relief and depth; and the introduction of a folded, polished pre-cast concrete panel of varying widths provides further relief and visual interest. The brick type proposed would be of a light grey colour which would complement the stone colour of the neighbouring magistrates’ court. The window frames and side panels would be metal and in a darker grey/black tone. The flank walls to each block would echo the primary facades but in a less robust form, reflecting their secondary nature.

A consistent ground floor base containing a high degree of glazing to the facades onto Marylebone Road and Old Marylebone Road and also faced in the same charcoal grey anodised aluminium found elsewhere in the facades, will ground the building. The height of the base aligns with the colonnade to the adjacent magistrates’ court, which complements the street-level relationship between the two buildings. In addition to this continuous base, each of the blocks is also given a defining top, by the introduction of a double-height treatment to the top two storeys, created by the omission of the concrete lintel between these floors.

The principal design objection to the proposal is on the grounds that the proposed replacement building is too tall and too bulky; and thus does not adequately address its context. This is the view of both the relevant amenity societies (Marylebone Association and St Marylebone Society) and is included in the comments of almost all objections to the scheme.

It is certainly considered that the height of the proposed development is the most challenging element of the proposal. The current building at its highest point (i.e. the top of the stair turret) measures 62.74m AOD, which is an overall height of 32.3m and this compares with the tallest block of the replacement building which reaches a height of 74.735m AOD (parapet height), which is an overall height of 44.335m.

In terms of policy considerations, both S28 of the City Plan and DES 1 of the UDP demand high quality design solutions; and UDP policies DES 3 and DES 4 further clarify these requirements in terms of tall buildings and infill development. The applicants have sought to focus on policy DES 3, which relates to high buildings (defined as a building being significantly higher than its surroundings) and highlight that this policy indicates that tall buildings will not be permitted where they have adverse impact upon strategic views; on conservation areas and the settings of listed buildings; and in views from London Squares. The policy also indicates that tall buildings will not be permitted where they would be incongruous with respect to the prevailing character of the surrounding area. The policy does acknowledge that tall buildings may be exceptionally acceptable and sets out design criteria that ought to apply, including high quality design, employment opportunities and housing capacity and a favourable mix of land uses which would facilitate shorter journeys to work, energy conservation and support other sustainability objectives. In terms of more detailed criteria the policy suggest that such buildings should define landmark points of significant urban activity and accord with the scale, and character of urban grain and street frontage lengths; provide active frontages at street level, enhance local public realm and have no adverse microclimate impacts. It is a moot point whether policy DES 3 is applicable to this application, in circumstances where the proposed building is less than 12m higher than the current building on site; is between 3 and 6 storeys taller than its immediate neighbours; and is in an area where a disparity in building heights already exists. Nevertheless the suggestion from some of the objections is that the proposed building is significantly taller than its surroundings and thus it is appropriate to be mindful of this policy.

Policy DES 4 relates to infill development, which is defined as the insertion of one or more new buildings within a continuous street façade or frontage. This policy indicates that such development will be permitted as long as its design has regard to the prevailing character and quality of the surrounding townscape, particularly in conservation areas. The policy also promotes certain urban design characteristics such as preservation or consolidation of prevailing overall heights, storey heights and massing of adjacent buildings. The policy application indicates that in areas of high-quality varied townscape, new developments should be integrated into their surroundings, through appropriate choices of scale, form and materials that reflect the type and quality of the existing townscape. In areas of low-quality varied townscape the policy identifies the opportunity to generate new compositions and points of interest.

It is considered that the application of policy DES 4 is appropriate. In the particular context of this site it is arguable that the area is of mixed quality and varied townscape. While there are high quality buildings and townscape in the immediate vicinity, the site itself lies outside a conservation area; and there are buildings in the vicinity both on Marylebone Road and Old Marylebone Road of indifferent quality.

It is considered to be the case that the proposed replacement building and notably the tallest central block does introduce a height to the new building which discordantly contrasts with the height of the existing building and with the immediate context. However, a discrepancy in height would not in principle be incongruous, as there are existing contrasts in scale between buildings on Marylebone Road and Old Marylebone Road; and between these principal streets and the lower-scale Georgian townscape of the Portman Estate Conservation Area to the south and east. Furthermore there is considered to be some merit to the applicant's contention that a prominent building would be appropriate at this corner site on the junction of these two principal roads.

It is therefore considered important to assess whether the overall merits of the scheme, successfully mitigate the discordant height and what the overall townscape impacts are. In the first instance it is considered that the design approach of three interconnected blocks of differing height, does allow a softening of the transition in scale with immediate neighbours. Secondly, the detailed design and choice of materials does introduce an element of townscape cohesion which the existing building lacks. While the current building has its plaudits, it is considered to be a building which in its own right has architectural interest and merit but is less successful at integrating into its townscape context. The red metal facing panels with smoked and mirrored glass, visually jar with the more traditional masonry materials found in surrounding buildings; also the projecting stair turret introduces a very assertive design component, deliberately designed as an eye-catching feature rather than contributing to a harmonious street facade; finally the plant room and building maintenance unit at roof level, produce an unresolved and messy termination. Thus it is the case that the proposed building, like the existing building, contrasts with its surroundings but for differing reasons. It is taller than the existing building but this additional height is mitigated and softened by the handling of massing and also by having a more cohesive appearance within its townscape context.

The application has included several townscape views to enable assessment of the impact in terms of the adjacent conservation areas, listed buildings and wider townscape. In all of these views, while the increase in height is readily apparent, the impact is for the most part not detrimental and in some respects responds more successfully to the townscape. The height of the buildings in Marylebone Road and Old Marylebone Road, already have a disparate scale and this is maintained and arguably the taller block at the knuckle of the road junctions performs a legible townscape function and landmark.

The views from within the Portman Estate Conservation Area are considered to be the most sensitive, particularly from Harcourt Street, with listed Georgian buildings in the foreground and where the landmark qualities of the Swedish Church can be appreciated. From this perspective (Views 4 & 5), the proposed new building is not considered to be harmful and while the additional height is appreciable, the massing acceptable breaks down and the masonry facades and tone of brick sit comfortably as a backdrop.

In addition to the impact of its height, the architecture of the proposed new building and the suggested facing materials successfully complement the townscape. This is well demonstrated in some of the views along Marylebone Road, such as View 6, where the orthogonal design, well-proportioned facades with punched openings and tonally

complementary materials, when viewed alongside the magistrates' court, acceptably integrate.

Finally, the introduction of a hotel reception lobby and café at ground floor level, will introduce a far more animated and visually interesting street level experience, engaging with the footway, as opposed to the current situation, where the ground floor of the existing building has a deadening and poor relationship with the street. Further animation to the ground floor may also take the form of public art, which is proposed without specific details, although the ground floor is identified as a potential location for an integrated piece of public art.

In conclusion, while the concerns expressed about the height of the proposed new building are recognised and understood, it is considered that the scheme would not have a harmful impact upon the townscape or upon adjacent designated heritage assets (listed buildings & conservation areas) and that the proposal offers the opportunity to introduce a high quality new building to this prominent location, which in terms of detailed design and choice of materials has a more complementary relationship with the surrounding context and will introduce a more animated ground floor.

As such, the proposal accords with policies S25 and S28 of the City Plan and policies DES 1, DES 3, DES 4, DES 7, DES 9 and DES 10 of the UDP.

### **8.3 Residential Amenity**

Several objections have been received in relation to potential loss of light and privacy.

#### **8.3.1 Loss of Light**

Policy ENV13 of the UDP seeks to protect existing premises, particularly residential from a loss of daylight and sunlight as a result of new development. Permission would not normally be granted where developments result in a material loss of daylight or sunlight. Policy DES 3 (c) (4) of the UDP also specifies, amongst other things, that high buildings should minimise the effects of overshadowing, especially within predominantly residential areas.

The supporting text to policy ENV 13 specifies that regard should be had to the BRE publication "Site Layout Planning for Daylight and Sunlight: A guide to good practice" (2011) ("the BRE Guide"). The BRE stress that the numerical values are not intended to be prescriptive in every case and are intended to be interpreted flexibly depending on the circumstances since natural lighting is only one of many factors in site layout design. For example, in an area with modern high rise buildings, a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings.

The applicant has submitted a Daylight and Sunlight Report by Point 2 Surveyors Limited ("the Light Study") as part of the application to demonstrate compliance with the BRE Guide. The Light Study considers the following adjacent or nearby residential properties that are eligible for testing in the BRE Guide:

- Hunstanton House, Cosway Street

- The Church Army Hostel, 1-5 Cosway Street
- 1-15 Charter Court
- 17 Harcourt Street

Residential properties beyond these are considered too distant from the subject property to result in potentially unacceptable light loss.

### Daylight

In assessing daylight levels, the Vertical Sky Component (VSC) is the most commonly used method. It is a measure of the amount of light reaching the outside face of a window. If the VSC achieves 27% or more, the BRE advise that the window will have the potential to provide good levels of daylight. The BRE guide also recommends consideration of the distribution of light within rooms served by these windows. Known as the No Sky Line (NSL) method, this is a measurement of the area of working plane within these rooms that will receive direct daylight from those that cannot. With both methods, the BRE guide specifies that reductions of more than 20% are noticeable.

The use of the affected rooms has a major bearing on the weight accorded to the effect on residents' amenity as a result of material losses of daylight. For example, loss of light to living rooms, dining rooms, bedrooms, studies and large kitchens (if they include dining space and are more than 12.6 square metres) are of more concern than loss of light to non-habitable rooms such as stairwells, bathrooms, small kitchens and hallways.

The Light Study concludes that, of the 159 windows eligible for testing, two would have VSC losses exceeding 20%. No room would have NSL losses exceeding 20%. The two windows are located within 1-15 Charter Court and would have losses of approximately 22 and 25%. These losses are only marginally over what the BRE Guide deems noticeable and are therefore not necessarily harmful. The BRE Guide itself also states that it is intended to be applied flexibly as light levels are only one factor affecting site layout. In a central London location like this, expectations of natural light levels cannot be as great as development in rural and suburban locations and to which the BRE guide also applies. Many sites throughout the CAZ have natural light levels comparable to that which would result from the proposed development yet still provide an acceptable standard of accommodation. In this context, the level of light loss is considered acceptable and does not warrant refusal of the development.

### Sunlight

The BRE Guide states that only windows with an orientation within 90 degrees of south are eligible for testing. It also states that rooms will appear reasonably sunlit provided that they receive 25% of annual probable sunlight hours, including at least 5% of annual winter sunlight hours. A room will be adversely affected if the resulting sunlight level is less than the recommended standards and reduced by more than 20% of its former values and if it has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours.

The Light Study concludes that all of the 88 windows eligible for sunlight testing would meet the BRE Guide. Accordingly, the proposed development would not result in unacceptable loss of sunlight to neighbouring residential properties and would be

consistent with policy ENV13 of the UDP and policy S29 of the City Plan.

### 8.3.2 Sense of Enclosure

The proposed development would be separated from the residential properties noted above by the widths of Marylebone Road (approx. 40 m), Old Marylebone Road (approx. 20 m) and Harcourt Street (approx. 14 m). The additional bulk and height of the building would also take place above the height and bulk of the existing building, which is already higher than its immediate neighbours and the residential properties identified above. Combined with the separation distance noted above, the additional height and bulk identified would not result in a significantly increased sense of enclosure for the occupants of those properties.

The proposed development would also be seen only in oblique views from the rear of 171 Seymour Place. Accordingly, the proposed development would not result in a significant increase in sense of enclosure for the occupants of that property. All other residential properties would be located too far from the application site to be affected by sense of enclosure and would be consistent with policy ENV13 of the UDP and policy S29 of the City Plan.

### 8.3.3 Privacy

As noted above, the proposed development is separated from most surrounding properties by the widths of Marylebone Road, Old Marylebone Road and Harcourt Street. It would also have a similar level of outlook to the existing office building. Accordingly, it is anticipated that it would not result in a significantly increased overlooking for the occupants of most surrounding properties.

However, windows on the rear or south eastern elevation of the proposed building at ground to seventh floor level would have oblique views but in close proximity to their counterparts on the rear elevation of 15 Harcourt Street (Mina Palace). Accordingly, a condition is recommended requiring that these windows are obscure glazed and fixed shut. Subject to this condition, the proposed development would not result in significant loss of privacy for the occupants of 15 Harcourt Street.

An objector is concerned that the height of the proposed building may allow for overlooking of windows and the terraces at 165 Seymour Place. However, that property is largely screened from the application site by the building at 171 Seymour Place. In addition to screening the application site, 171 Seymour Place also overlooks 165 Seymour Place. Accordingly, the proposed development would not result in significant loss of privacy for the occupiers of 165 Seymour Place.

Given the above, the proposed development would not result in significant overlooking of neighbouring properties and would be consistent with policy ENV13 of the UDP and policy S29 of the City Plan.

### 8.3.4 Noise

It is proposed to install building services plant within the development. The Environmental Health Officer has reviewed the proposal and has recommended

conditions to ensure that noise from these sources does not cause unacceptable harm to residents surrounding the site.

An objector is also concerned that the hotel, particularly its ancillary restaurant/café would result in unsatisfactory noise levels for nearby residents. However, hotels by their nature are not noisy and it is anticipated that it would result in no more noise than the office use it replaces. Conditions are also recommended to control the restaurant/cafes operating hours and its use to ensure that it does not result in harm to residential amenity. Subject to these conditions, the proposal would be consistent with policies ENV6 and ENV7 of the UDP and policy S32 of the City Plan.

## **8.4 Transportation/Parking**

Several objectors are concerned with parking, on-street servicing and the impact of vehicle movements on the Harcourt Street/Old Marylebone Road intersection. The Highways Planning Manager has also objected to the absence of off-street servicing for the proposed hotel; unsatisfactory cycle parking provision and changes to the building line.

### **8.4.1 Trip Generation**

The applicant has submitted a Transport Assessment providing information on the level of operation of the proposed development. The figures within the information submitted by the applicant appear broadly reasonable as a base to compare change that the proposed use may generate.

On balance, while the proposed land use will result in higher levels of activity, particularly with regards to taxis/private hire vehicles and coaches and at different times to the existing use, the overall activity of guests arriving and departing the site on foot will not result in significant detrimental highway safety or operation.

### **8.4.2 Car Parking**

The proposed development results in the loss of 18 existing off-street car parking spaces. Policies TRANS 21 and TRANS 2 of the UDP support the loss/reduction in off-street car parking provision for non-residential use, where there is no operational need. It is accepted that in this location, the in non-residential car parking would be consistent with policies TRANS 21 and TRANS 22.

The site is also within a Control Parking Zone which means anyone who does drive to the site will be subject to those controls. The impact of the proposed development on on-street parking levels will therefore be minimal.

An objector notes that they lease 10 spaces that are used for residential flats at 15 Harcourt Street. These spaces are located within the basement level of the existing building and would be lost if the site is redeveloped. However, this appears to be a private arrangement between this objector and the site owner and these spaces are not protected for residential use via condition. Accordingly, an objection to the development on this basis would not be sustainable.

### 8.4.3 Servicing

Policy S42 of the City Plan and TRANS20 of the UDP require off-street servicing for new development. The proposed development includes no off-street servicing and the applicant proposes that all servicing take place on-street, on Harcourt Street.

The Highways Planning Manager considers that there would appear to be no physical constraint to achieving on-site servicing and therefore the proposal is not consistent with S42 or TRANS20. Providing off-street servicing would improve the highway environment for pedestrians and other highway users.

The proposed development is expected to generate two servicing trips per day. The extent of delivery activity indicates that the dwell time would be a maximum of 45 minutes. While it is accepted the current proposal does not have any ancillary areas, these figures are based on the particular existing operating style of the hotel and are considered optimistic for a hotel of this scale. An alternative Use Class C1 use of this scale may operate in a different fashion and have a higher level of servicing.

Deliveries and goods left on the highway can create an obstruction to pedestrians and can have an adverse impact on any improvements to the public realm. The scheme as designed, has very limited off-street holding areas for delivered goods. This means the goods are likely to remain on the highway for longer periods of time, creating an obstruction to pedestrians degrading any improvements to the highway/public realm.

The Highways Planning Manager also considers that the applicant has presented an inflexible servicing model and not adapted the approach to the site or surrounding highway network, including limiting vehicle size to match the site constraints. This includes reference to an existing covenant on the existing vehicle access to the site limiting vehicles to 5 tonne in weight (this would be a large white van type vehicle – commonly used to service food and beverage premises within Westminster). While the existence of the covenant is accepted, a flexible approach to the size of delivery vehicle may allow for smaller vehicles to be used for servicing (than those employed by the current operator).

The applicant has submitted a Servicing Management Plan (SMP). However, the Highways Planning Manager notes that the servicing arrangements within the submission documents relate to one particular operators current servicing approach. This approach limits how the applicant is proposing to minimise the impact of their servicing approach and development of a robust Servicing Management Plan. There is no specific approach outlined for the subject site for future employees to follow.

The SMP should clearly identify process, storage locations, scheduling of deliveries and staffing arrangements; as well as how delivery vehicle size will be managed and how the time the delivered items spend on the highway will be minimised. It should clearly outline how servicing will occur on a day to day basis, almost as an instruction manual or good practice guide for the occupants. A basic flow chart mapping the process may be the easiest way to communicate the process, accompanied by a plan highlighting activity locations. The idea of the SMP is to ensure that goods and delivery vehicles spend the least amount of time on the highway as possible and do not cause an obstruction to other highway users. The SMP should inform the occupant on their requirements to

minimise the impact of their servicing on the highway (i.e. set out how the occupant is expected to service the unit). A supplier instructions sheet is also a helpful part of the SMP.

However, paragraph 32 of the NPPF states that “*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*”. In this instance, the existing office building currently has no off-street servicing and is also serviced from Harcourt Street. The applicant has not provided details of the servicing levels for the existing office but it is anticipated to be at least similar to the proposed hotel. Accordingly, the harm identified by the Highways Planning Manager could occur at present and in an unmanaged way.

The applicant has also demonstrated that servicing of the hotel would be limited to 14 times per week, for up 45 minutes at a time. Accordingly, the harm identified by the Highways Planning Manager would be for a relatively small period weekly. The applicant also proposes introducing a dedicated on-street loading area on Harcourt Street to minimise congestion caused through servicing. A condition requiring an updated and site specific SMP that addresses the Highways Planning Managers comments could also be imposed, should permission be granted.

Whilst the Highways Planning Managers concerns are understood, the harm identified would not be severe when the proposal is compared to the existing situation and when mitigation from the recommended condition and proposed loading bay on Harcourt Street are also considered. On balance, the servicing arrangements proposed are therefore acceptable in this particular instance.

#### **8.4.4 Coaches and Taxis**

The applicant has indicated that coach and taxi activity would be focused on Old Marylebone Road. This would need to be agreed with TFL, but is acceptable to the City Council. However, the movement of people (and their luggage) is likely to disrupt other pedestrians and the applicant has not provided details of how coach arrivals or departures, including managing the transfer of guests to and from the coach to the hotel will be managed. Accordingly, a condition is recommended to secure an appropriate coach and taxi management plan. Subject to this condition, the proposed development would be consistent with policies TRANS8 and TRANS22 of the UDP.

#### **8.4.5 Cycle Parking and Waste Storage**

Policy 6.9 of the London Plan requires one cycle space per 20 bedrooms (i.e. 15 spaces). The applicant proposes 22 cycle parking spaces which would meet this requirement. However, access to the cycle store is via the waste store which would be unacceptable as it makes the cycle store unlikely to be used and therefore discourages sustainable transport. A condition is recommended to address this.

The application was not accompanied by a waste management strategy to demonstrate that waste and recyclable materials will be managed in line with the City Council's Recycling and Waste Storage Requirements. A condition is recommended to address this.

#### **8.4.6 Changes to Building Line – Stopping Up and Dedication of Highway**

The proposed building alters the building line on Old Marylebone Road and Harcourt Street. This results in encroachment onto the public highway but also areas where highway would be widened. Accordingly, some areas of highway will need to be stopped up and other areas will need to be dedicated to allow the proposed development to be implemented.

The highway changes on Old Marylebone fall within TFL's jurisdiction and will require their approval as the relevant highway authority. Notwithstanding this, the losses of highway would be relatively minor and would not compromise pedestrian movement in Old Marylebone Road or Harcourt Street. Although the proposal will increase pedestrian movement in the area, it is not anticipated that this increase will be significant and that sufficient footway would remain on Old Marylebone Road following removal of three street trees. Accordingly, the proposal would be consistent with policy S41 of the City Plan and policy TRANS3 of the UDP.

Pursuant to s247 of the Town and Country Planning Act 1990 (amended), stopping up would be required for parts of the public highway to enable this development to take place on Harcourt Street. The recommendation therefore includes wording to enable the preparation of a draft order.

#### **8.5 Economic Considerations**

The proposed development would provide employment opportunities during construction and would create 60 FTE jobs once operational. The proposal can also accommodate a significant number of visitors annually whose spending during their stay will bolster the local economy and encourage further investment by shops and services in the area.

#### **8.6 Access**

The proposed development includes accessible passenger lifts, wide corridors and level thresholds into wheelchair accessible rooms. A total of 10% of the hotel rooms would also be Universally Accessible, in accordance with London Plan requirements. Induction loops would also be installed in the reception area for those that are hard of hearing and Universally Accessible toilets in proximity to the integral restaurant.

#### **8.7 Other UDP/Westminster Policy Considerations**

##### **8.7.1 Sustainability and Climate Change**

Policy 5.2 of the London Plan refers to minimising carbon dioxide emissions and states that development proposals should make the fullest contribution to minimising carbon dioxide emissions in accordance with the following energy hierarchy:

1. Be Lean-Use less energy.
2. Be Clean-Supply energy efficiently.
3. Be Green-Use renewable energy.

Policy 5.2 also states that where specific targets cannot be fully achieved on-site, any shortfall may be provided off-site or through a cash in lieu contribution to secure delivery of carbon dioxide savings elsewhere.

Policy S28 of the City Plan requires developments to incorporate exemplary standards of sustainable and inclusive urban design and architecture.

Policies 5.6 of the London Plan and S39 of the City Plan require major development to be designed to link to and extend existing heat and energy networks in the vicinity, except where it is not practical or viable to do so.

Policies 5.7 of the London Plan and S40 of the City Plan require all major development to maximise on-site renewable energy generation carbon dioxide emissions, where feasible.

Policy 5.9 of the London Plan states that development should reduce potential overheating and reliance on air conditioning systems.

The proposed development achieves a carbon dioxide reduction of 43% over 2013 Building Regulations and therefore meets policy 5.2 of the London Plan. The applicant has also addressed a number of technical queries raised by the Mayor.

There are no existing energy networks in the vicinity and none are planned. Accordingly, it would not be practical to require this of the applicant. The Mayor also asked the applicant to consider provision of solar PV. However, this is not deemed practical as it there is not sufficient space to provide it at roof level and the proposal already achieves satisfactory carbon reductions. The applicant does however propose a CHP system to heat the building and provide hot water.

The applicant has also provided a thermal comfort report that concludes that the proposal will be built to minimise potential overheating and the need for comfort cooling. A condition is recommended to secure this.

Overall, the proposed development satisfies policies 5.2, 5.6, 5.7 and 5.9 of the London Plan and policies S28, S39 and S40 of the City Plan.

### **8.7.2 Sustainable Urban Drainage Systems (SUDS)**

Policy 5.13 of the London Plan specifies that development should utilise Sustainable Urban Drainage Systems (SUDS) unless there are practical reasons for not doing so, should aim to achieve greenfield run-off rates, and ensure that surface water run-off is managed as close as possible to its source.

The proposed development would include brown roofs on the lower blocks. Whilst this would not achieve greenfield run-off rates, it would provide significant attenuation at source for run-off from the proposed development. The Lead Local Flood Authority has also been consulted and any comments received will be reported verbally. Accordingly, the drainage system proposed is considered acceptable.

## **8.8 London Plan**

The application is referable to the Mayor as the proposed building is over 30 metres in height. The Mayor has advised in his 'Stage 1' response (see background papers) that he has the following concerns with the development:

- The loss of mature street trees is a concern. These should ideally be retained or if replacement is necessary further justification is required, in order to comply with policy 5.10 of the London Plan;
- The submitted energy strategy does not fully accord with policies 5.2, 5.6, 5.7 and 5.9 of the London Plan. Further information regarding overheating, CHP and renewable energy are required. The final agreed energy strategy should be appropriately secured by the City Council.
- To ensure that the scheme accords with policies 6.3, 6.9, 6.10 and 6.13 of the London Plan, the applicant should make a contribution towards wayfinding and cycle hire docking stations. Blue badge parking and drop off/pick up requires further consideration and cycle parking should be increased. A travel plan, construction logistics plan and delivery and servicing plan should also be secured by condition.

These concerns have been addressed in the relevant sections of this report.

If Committee resolve to grant permission, this application needs to be reported back to the Mayor, and the Mayor has 14 days to direct approval or refusal.

## **8.9 National Policy/Guidance Considerations**

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

## **8.10 Planning Obligations**

The draft 'Heads' of agreement are proposed to cover the following issues:

- a) A financial contribution of £45,000 (index linked) for the expansion of a nearby cycle hire docking station;
- b) A financial contribution of £25,000 (index linked) toward wayfinding (Legible London);
- c) A financial contribution of £27,239 (index linked) toward the funding of Crossrail;
- d) A financial contribution of £135,000 (index linked) toward street tree planting on Old Marylebone Road;
- e) Payment of the cost of highway works associated with the development on Old Marylebone Road and Harcourt Street;
- f) Offering local employment opportunities during construction and operation of the hotel;
- g) The provision, monitoring and review of a travel plan; and
- h) Payment of cost of monitoring the agreement (£500 per head of term).

The subject building is vacant and appears to have been for some time. The proposed development may therefore not be subject to an exemption for the existing floorspace on-site. Accordingly, and subject to any other relief or exemption available to the applicant, the estimated Westminster CIL payment would be £1,119,300.00. An additional estimated CIL payment of £373,100.00 would be payable to the Mayor.

### **8.11 Environmental Impact Assessment**

As set out above, the applicant requested a screening opinion from the City Council and were advised on 7 March 2017 that an EIA was not required.

### **8.12 Other Issues**

#### **8.12.1 Basement**

The basement level of the proposed development would occupy the volume of the existing basement level on-site. It would also be located entirely beneath the footprint of the proposed development. Accordingly, it satisfies the size and location requirements of policy CM28.1 of the City Plan. The applicant has also provided a Structural Method Statement and signed pro-forma Appendix A to the City Council's Code of Construction Practice that satisfy part 2 of policy CM28.1 of the

#### **8.12.2 Construction Impact**

Objections have been received from neighbouring properties regarding the impact of construction, including noise and traffic.

It is a long standing principle that planning permission cannot be refused due to the impact of construction. This is due to its temporary nature and the ability to control it by condition and legal agreement. Accordingly, conditions are recommended that limit the hours of construction and require adherence to the City Council's Code of Construction Practice.

#### **8.12.3 Trees**

Policies 5.10 of the London Plan and S38 of the City Plan specify that green infrastructure should be protected and enhanced.

The proposed development would not necessitate removal of any trees on-site or on Westminster's public highway.

The proposal would require the removal of three Ginkgo trees on Old Marylebone Road that are owned by TFL. TFL have objected strongly to their removal, noting that replacement planting could not take place within the vicinity of the site given the high number of underground services within this part of Old Marylebone Road. Accordingly, TFL are unwilling to accept a payment for replacement planting. TFL also note that the information submitted misrepresents the canopies of the existing trees and their interaction with the proposed building. TFL also consider that the information submitted undervalues these trees and their potential lifespan.

TFL have requested that these trees are retained and that the building line is moved to accommodate them. They also note that insufficient information has been submitted to demonstrate the applicant's case that moving the building line would harm the viability of the proposed development.

Ultimately, the decision to remove these trees rests with TFL as Highway Authority for Old Marylebone Road. However, the three Ginkgo trees make only a modest contribution to urban greening and the character and appearance of the area given their relatively small stature and asymmetric canopy. The proposal also includes additional urban greening through the biodiverse roofs proposed. On balance, it is considered that an objection to the development on this basis would not be sustainable.

Five other Ginkgo trees would be retained on Harcourt Street and Old Marylebone Road. Conditions are recommended to secure their protection during construction.

#### **8.12.4 Objectors Comments**

The issues raised by the objectors have been largely addressed above. The following is also noted:

##### Overshadowing of Garden Terrace to rear of Swedish Church

An objector considers that the additional height of the proposed building would overshadow a terrace area to the rear of the Swedish Church on Harcourt Street.

Non-residential gardens and terraces are not protected by the development plan. Notwithstanding, this terrace area is located 40 metres to the southeast of the application site and separated from it by the bulk and height of large buildings at 12-15 Harcourt Street. It is anticipated that the proposed development would only be in a position to potentially overshadow this terrace area around mid-summer and at that point the sun would be low enough on the horizon to provide no further shadowing than the existing intervening buildings. Accordingly, an objection to the development on this basis would not be sustainable.

##### Number of Hotels in the Area

An objector considers there to already be too many hotels in the area. However, this is not a material planning consideration.

##### Security Concerns for 15 Harcourt Street (Mina Palace)

An objector is concerned that the proposed development would compromise the safety and security of Mina Palace, a neighbouring site that provides accommodation for staff at the Embassy of the People's Republic of China.

The applicant advises that access to the roof of the development would be strictly controlled. Windows have also been designed to limit their opening and therefore their ability to access the roof of Mina Palace. The proposed development has also been designed in accordance with 'Secured by Design' principles and reviewed by the Met

Police during design development. A condition is recommended to secure this. Subject to this condition, the proposed development meets policy 7.3 of the London Plan and is unlikely to pose a security risk to occupants of Mina Palace.

### Party Wall Issues

An objector is concerned that the proposal may cause unspecified party wall issues. This is not a material planning consideration.

### Loss of Light to Sentinel House

Permission has been granted to convert Sentinel House into residential accommodation (RN: 14/08069/FULL). An objector is concerned that the proposal will result in loss of light to Sentinel House, on the opposite side of Harcourt Street.

However, this permission has not been implemented and may never be implemented. For the purposes of this assessment Sentinel House remains an office and light to office accommodation is afforded less protection than to residential uses.

Notwithstanding this, the applicant has undertaken an assessment of light loss to the approved residential units at Sentinel House. Of the 92 eligible windows tested, 20 would have breaches of VSC exceeding 20%. Nineteen of these breaches are marginal and do not exceed 30% with the remaining window has a loss of 31.65%. Thirteen of the windows affected serve bedrooms which the BRE Guide specifies as having lower expectations of daylight. Of the 32 eligible rooms for Daylight Distribution assessment, six have Daylight Distribution losses exceeding 20%, with the highest being a loss of 49.6%. However, all of these losses affect bedrooms only. As noted above, the BRE Guide itself states that it is intended to be applied flexibly as light levels are only one factor affecting site layout. In a central London location like this, expectations of natural light levels cannot be as great as development in rural and suburban locations and to which the BRE guide also applies. Many sites throughout the CAZ have natural light levels comparable to that which would result from the proposed development yet still provide an acceptable standard of accommodation. In this context, the level of light loss is considered acceptable and does not warrant refusal of the development. The level of light loss to office accommodation is also considered acceptable.

### Delivery and Servicing Conflict with Sentinel House

An objector is concerned that on-street servicing and waste collection, particularly the proposed on-street loading bay will conflict with similar arrangements for the development approved at Sentinel House.

As set out above, this permission has not been implemented and may never be implemented. Notwithstanding this and as noted by this objector, the potential for this would be for very short periods during off-peak periods only. The potential for this could also be addressed through the Servicing Management Plan condition recommended.

### Precedent

An objector is concerned that approval of this application would set a precedent for other tall buildings.

However, each application must be considered on its merits having regard to the policy context and development plan at the time, the specific development proposed and site circumstances. Accordingly, approval of this development would not set a precedent for other tall buildings.

(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: RUPERT HANDLEY BY EMAIL AT [RHANDLEY@WESTMINSTER.GOV.UK](mailto:RHANDLEY@WESTMINSTER.GOV.UK)

**DRAFT DECISION LETTER**

**Address:** Westcourt House , 191 Old Marylebone Road, London, NW1 5DZ

**Proposal:** Redevelopment of the site to provide hotel (Use Class C1) with ancillary ground floor cafe / restaurant in 13 storey building.

**Reference:** 17/04194/FULL

**Plan Nos:** 5616-20-001, 5616-20-002, 5616-00-199 Rev B, 5616-00-200 Rev B, 5616-00-201 Rev B, 5616-00-202 Rev B, 5616-00-203 Rev B, 5616-00-204, 5616-00-205, 5616-00-206, 5616-00-207, 5616-00-208 Rev B, 5616-00-209, 5616-00-260, 5616-00-261, 5616-00-300, 5616-00-301, 5616-00-302, 5616-00-303, 5616-01-199, 5616-01-200, 5616-01-201, 5616-01-202, 5616-01-203, 5616-01-204, 5616-01-205, 5616-01-206, 5616-01-207, 5616-01-208, 5616-01-209, 5616-01-300, 5616-01-301, 5616-01-302, 5616-01-303, 5616-20-199, 5616-20-200, 5616-20-201, 5616-20-202, 5616-20-203, 5616-20-208, 5616-20-209, 5616-20-260, 5616-20-261, 5616-20-262, 5616-20-263, 5616-20-264, 5616-20-270, 5616-20-271, 5616-20-272, 5616-20-250, 5616-20-251, 5616-21-001, 5616-21-002, 5616-21-003, 2016/2931/019; Energy Report by Applied Energy (Rev A – dated 4 May 2017); Letter and attachments from JLL, dated 29 January 2018.

**Case Officer:** Nathan Barrett

**Direct Tel. No.** 020 7641 5943

**Recommended Condition(s) and Reason(s)**

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
  - o between 08.00 and 18.00 Monday to Friday;
  - o between 08.00 and 13.00 on Saturday; and
  - o not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- o between 08.00 and 18.00 Monday to Friday; and
- o not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety). (C11AB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 **Pre-commencement Condition:** Prior to the commencement of any demolition or construction on site the applicant shall submit an approval of details application to the City Council as local planning authority comprising evidence that any implementation of the scheme hereby approved, by the applicant or any other party, will be bound by the council's Code of Construction Practice. Such evidence must take the form of a completed Appendix A of the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Inspectorate, which constitutes an agreement to comply with the code and requirements contained therein. Commencement of any demolition or construction cannot take place until the City Council as local planning authority has issued its approval of such an application (C11CB)

Reason:

To protect the environment of neighbouring occupiers. This is as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 4 You must apply to us for approval of samples of the facing materials you will use, including glazing, and elevations and roof plans annotated to show where the materials are to be located. You must not start any work on these parts of the development until we have approved what you have sent us. You must then carry out the work using the approved materials.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 5 You must apply to us for approval of 3m x 3m fabricated sample panels of the following parts of the development:

i) typical facade bays.

The sample(s) should demonstrate the colour, texture, face bond, pointing, component interfaces and means of construction (including any typical expansion/movement joints). You must not start any work on the external cladding of the development until we have approved the sample panels.

You must then carry out the work according to these approved sample(s).

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan

(November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 6 You must apply to us for approval of detailed drawings of the following parts of the development:

- i) windows;
- ii) external doors;
- iii) shopfront including fascia details;
- iv) location and size of movement joints;
- v) interfaces with windows;
- vi) any ventilation and other services terminations at façade and roof;
- vii) CCTV cameras - showing details of cameras and precise location;
- viii) rooftop structures, including plant enclosures;
- ix) external lighting - including details of extent, type, colour and location; and
- x) signage strategy - showing extent and intended location.

You must not start any work on the superstructure of the development until we have approved what you have sent us. You must then carry out the work according to these approved drawings.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 7 You must not paint or apply vinyl films or obscure the window glass to the ground floor of the hotel reception or café area or block it in any other way. The windows must be clear glazed and maintained as such.

Reason:

To maintain an active ground floor and enhance the character and appearance of this part of the City. This is as set out in S28 and S29 of Westminster's City Plan (November 2016) and DES 1 of our Unitary Development Plan that we adopted in January 2007.

- 8 You must apply to us for approval of a scheme of public art. You must not start work on the public art until we have approved what you have sent us. Before anyone moves into the building you must carry out the scheme according to the approved details. You must maintain the approved public art and keep it on this site. You must not move or remove it.

Reason:

To make sure the art is provided for the public and to make sure that the appearance of the building is suitable. This is as set out in DES 7 (A) of our Unitary Development Plan that we adopted in January 2007. (R37AB)

- 9 You must not paint any outside walls of the building without our permission. This is despite the fact that this work would normally be 'permitted development' (under class C of part 2 of schedule 2 to the Town and Country Planning General Permitted Development (England) Order 2015) (or any order that may replace it). (C26WB)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of the area. This is as set out in S28 of Westminster's City Plan (November 2016) and DES 1 and DES 5 or DES 6 or both of our Unitary Development Plan that we adopted in January 2007. (R26AD)

- 10 You must provide the following environmental sustainability features (environmentally friendly features) before you start to use any part of the development, as set out in your application.

-biodiverse roof

You must not remove any of these features. (C44AA)

Reason:

To make sure that the development provides the environmental sustainability features included in your application as set out in S28 or S40, or both, of Westminster's City Plan (November 2016). (R44AC)

- 11 **Pre-commencement Condition:** The development hereby permitted shall not be commenced until detailed design and method statements (in consultation with London Underground) for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved in writing by the local planning authority which:

- provide details on all structures;
- provide details on the use of tall plant and scaffolding;
- accommodate the location of the existing London Underground structures and tunnels;
- accommodate ground movement arising from the construction thereof; and
- mitigate the effects of noise and vibration arising from the adjoining operations within the structures and tunnels.

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

Reason:

To ensure that the development does not impact on existing transport infrastructure, in accordance with policy 6.2 of The London Plan (March 2016).

- 12 **Pre-Commencement Condition:** You must apply to the City Council (in consultation with Transport for London) for approval of a Construction Logistics Plan, which identifies efficiency and sustainability measures to be carried out while the development is being built. You must not carry out the development until the plan has been approved. You must then carry out the development in accordance with the approved plan.

Reason:

To ensure that the construction logistics for the development minimise nuisance and disturbance in the interests of the amenities of neighbouring occupiers and of the area generally, and to avoid hazard and obstruction to the public highway. This is as set out in S29 of Westminster's City Plan (adopted November 2016) and TRANS 2 and ENV 5 of our Unitary Development Plan that we adopted in January 2007.

- 13 The development hereby approved shall not be occupied until a Servicing Management Plan has been submitted to and approved in writing by the City Council, in consultation with Transport for London. You must then carry out the development in accordance with the approved details.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (adopted November 2016) and TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007.

- 14 **Pre Commencement Condition.**

(a) You must apply to us for approval of a written scheme of investigation for a programme of archaeological work. This must include details of the suitably qualified person or organisation that will carry out the archaeological work. You must not start work until we have approved what you have sent us.

(b) You must then carry out the archaeological work and development according to this approved scheme. You must produce a written report of the investigation and findings, showing that you have carried out the archaeological work and development according to the approved scheme. You must send copies of the written report of the investigation and findings to us, to Historic England, and to the Greater London Sites and Monuments Record, 1 Waterhouse Square, 138-142 Holborn, London EC1N 2ST.

(c) You must not use any part of the new building until we have confirmed that you have carried out the archaeological fieldwork and development according to this approved scheme. (C32BC)

Reason:

To protect the archaeological heritage of the City of Westminster as set out in S25 of Westminster's City Plan (November 2016) and DES 11 of our Unitary Development Plan that we adopted in January 2007.

- 15 The glass that you put in the south east elevation below level 7 (adjacent to Mina Palace) must not be clear glass, and you must fix it permanently shut. You must apply to us for approval of a sample of the glass (at least 300mm square). You must not start work on the relevant part of the development until we have approved the sample. You must then install the type of glass we have approved and must not change it without our permission. (C21DB)

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 16 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the City Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;

- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan (November 2016), by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 17 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 18 (1) Noise emitted from the emergency plant and generators hereby permitted shall not increase the minimum assessed background noise level (expressed as the lowest 24 hour LA90, 15 mins) by more than 10 dB one metre outside any premises.

(2) The emergency plant and generators hereby permitted may be operated only for essential testing, except when required by an emergency loss of power.

(3) Testing of emergency plant and generators hereby permitted may be carried out only for up to one hour in a calendar month, and only during the hours 09.00 to 17.00 hrs Monday to Friday and not at all on public holidays.

Reason:

As set out in S32 of Westminster's City Plan (November 2016) and ENV 7 (B) of our Unitary Development Plan that we adopted in January 2007. Emergency and auxiliary energy generation plant is generally noisy, so a maximum noise level is required to ensure that any disturbance caused by it is kept to a minimum and to ensure testing and other non-emergency use is carried out for limited periods during defined daytime weekday hours only, to prevent disturbance to residents and those working nearby.

- 19 The design and structure of the development shall be of such a standard that it will protect occupier from structural borne noise from the district and circle line so that they are not exposed to levels indoors of more than 35 dB LASmax within habitable rooms during day and night.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 20 All servicing must take place between 1000 and 1600 on Monday to Sunday. Servicing includes loading and unloading goods from vehicles and putting rubbish outside the building. (C23DA)

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R22CC)

- 21 **Pre Commencement Condition.** You must carry out a detailed site investigation to find out if the building or land are contaminated with dangerous material, to assess the contamination that is present, and to find out if it could affect human health or the environment. This site investigation must meet the water, ecology and general requirements outlined in 'Contaminated land, a guide to help developers meet planning requirements' - which was produced in October 2003 by a group of London boroughs, including Westminster.

You must apply to us for approval of the following investigation reports. You must apply to us and receive our approval for phases 1 and 2 before any demolition or excavation work starts, and for phase 3 when the development has been completed.

Phase 1: Site investigation - to assess the contamination and the possible effect it could have on human health, pollution and damage to property.

Phase 2: Remediation strategy - details of this, including maintenance and monitoring to protect human health and prevent pollution.

Phase 3: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate.  
(C18AA)

Reason:

To make sure that any contamination in the building or of the ground under the site is identified and treated so that it does not harm anyone who uses the site in the future. This is as set out in STRA 34 and ENV 8 of our Unitary Development Plan that we adopted in January 2007.  
(R18BA)

- 22 You must apply to us for approval of details of the ventilation system to get rid of fumes, including details of how it will be built and how it will look. You must not begin the use allowed by this permission until we have approved what you have sent us and you have carried out the work according to the approved details. (C14BB)

## Reason:

To protect the environment of people in neighbouring properties as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6, ENV 7 and DES 5 of our Unitary Development Plan that we adopted in January 2007. (R14AC)

- 23 The restaurant/cafe shall only be used in an ancillary capacity to the hotel use.

## Reason:

To protect neighbouring residents from noise and disturbance as set out in S29 and S32 of Westminster's City Plan (November 2016) and ENV 6 and TACE 11 of our Unitary Development Plan that we adopted in January 2007.

- 24 Customers shall not be permitted within the restaurant/cafe premises before 06:00 or after 23:00 each day. (C12AD)

## Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan (November 2016) and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R22CC)

- 25 The development hereby approved shall not be occupied until a Coach and Taxi Management Plan has been submitted to and approved in writing by the City Council, in consultation with Transport for London. You must then carry out the development in accordance with the approved details.

## Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan (November 2016) and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 26 You must apply to us for approval of details of secure cycle storage for the hotel use. You must not start any work on this part of the development until we have approved what you have sent us. You must then provide the cycle storage in line with the approved details prior to occupation. You must not use the cycle storage for any other purpose.

## Reason:

To provide cycle parking spaces for people using the development as set out in Policy 6.9 (Table 6.3) of the London Plan (March 2016).

- 27 You must apply to us for approval of details of how waste is going to be stored on the site. You must not start work on the relevant part of the development until we have approved what you have sent us. You must then provide the waste store in line with the approved details, and

clearly mark it and make it available at all times to everyone using the hotel. You must not use the waste store for any other purpose. (C14CD)

Reason:

To protect the environment and provide suitable storage for waste as set out in S44 of Westminster's City Plan (November 2016) and ENV 12 of our Unitary Development Plan that we adopted in January 2007. (R14BD)

- 28 You must apply to us for approval of a detailed glazing and ventilation scheme to ensure that the overheating risk to the new dwellings is minimised. You must not start work on these parts of the development until we have approved what you have sent us.

You must then carry out the work according to the approved glazing and ventilation scheme and all measures outlined in this document must be in place and operational prior to the first occupation of the development hereby approved. All measures shall be maintained as such thereafter and no change therefrom shall take place without the prior written consent of the Local Planning Authority.

Reason:

To prevent overheating and energy use, in accordance with policy 5.9 of the London Plan (March 2016).

- 29 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 30 **Pre Commencement Condition:** You must apply to us for approval of the ways in which you will protect the trees which you are keeping, as shown on the drawings hereby approved. You must not start any demolition, site clearance or building work, and you must not take any equipment, machinery or materials for the development onto the site, until we have approved what you have sent us. The tree protection must follow the recommendations in section 7 of British Standard BS5837: 2012. You must then carry out the work according to the approved details. (C31AC)

Reason:

To make sure that the trees on the site are adequately protected during building works. This is as set out in S38 of Westminster's City Plan (November 2016) and DES 1 (A), ENV 16 and ENV 17 of our Unitary Development Plan that we adopted in January 2007. (R31AC)

- 31 **Pre-Commencement Condition:** You must apply to the City Council (in consultation with the Metropolitan Police) for approval of safety and security features to be installed on the

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development, having regard to Secured by Designs "Commercial Developments 2015" Guide and "Resilient Design Tool for Counter Terrorism". You must not carry out the development until the safety and security features have been approved. You must then carry out the development in accordance with the approved features.

Reason:

To reduce the chances of crime without harming the appearance of the building as set out in S29 of Westminster's City Plan (November 2016) and DES 1 (B) of our Unitary Development Plan that we adopted in January 2007. (R16AC)

- 32 You must not use the roof of the building for sitting out or for any other purpose. You can however use the roof to escape in an emergency and/or for maintenance purposes.

Reason:

To protect the privacy and environment of people in neighbouring properties, as set out in S29 of Westminster's City Plan (November 2016) and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21AC)

- 33 Any structure over the footway (highway) must maintain 2.6 metres vertical clearance from the footway surface at all times and not extend closer than 1 metre to the kerb edge. Any structure within 1 metre of the kerb or over carriageway must maintain a minimum vertical clearance of 5.3 metres.

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan (November 2016) and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

**Informatives:**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan (November 2016), Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
- 2 You are advised that any indicative signage locations should be confined to the ground floor fascia zone. Any high-level signage is unlikely to be considered acceptable. Proposals for signage may be subject to advertisement consent.

When carrying out building work you must do all you can to reduce noise emission and take suitable steps to prevent nuisance from dust and smoke. Please speak to our Environmental Health Service to make sure that you meet all requirements before you draw up the contracts for demolition and building work.

Your main contractor should also speak to our Environmental Health Service before starting work. They can do this formally by applying to the following address for consent to work on construction sites under Section 61 of the Control of Pollution Act 1974.

24 Hour Noise Team  
Environmental Health Service  
Westminster City Hall  
64 Victoria Street  
London  
SW1E 6QP

Phone: 020 7641 2000

Our Environmental Health Service may change the hours of working we have set out in this permission if your work is particularly noisy. Deliveries to and from the site should not take place outside the permitted hours unless you have our written approval. (I50AA)

- 4 Under the Construction (Design and Management) Regulations 2007, clients, the CDM Coordinator, designers and contractors must plan, co-ordinate and manage health and safety throughout all stages of a building project. By law, designers must consider the following:
  - \* Hazards to safety must be avoided if it is reasonably practicable to do so or the risks of the hazard arising be reduced to a safe level if avoidance is not possible;
  - \* This not only relates to the building project itself but also to all aspects of the use of the completed building: any fixed workplaces (for example offices, shops, factories, schools etc) which are to be constructed must comply, in respect of their design and the materials used, with any requirements of the Workplace (Health, Safety and Welfare) Regulations 1992. At the design stage particular attention must be given to incorporate safe schemes for the methods of cleaning windows and for preventing falls during maintenance such as for any high level plant.

Preparing a health and safety file is an important part of the regulations. This is a record of information for the client or person using the building, and tells them about the risks that have to be managed during future maintenance, repairs or renovation. For more information, visit the Health and Safety Executive website at [www.hse.gov.uk/risk/index.htm](http://www.hse.gov.uk/risk/index.htm).

It is now possible for local authorities to prosecute any of the relevant parties with respect to non-compliance with the CDM Regulations after the completion of a building project, particularly if such non-compliance has resulted in a death or major injury.
- 5 Asbestos is the largest single cause of work-related death. People most at risk are those working in the construction industry who may inadvertently disturb asbestos containing materials (ACM's). Where building work is planned it is essential that building owners or

occupiers, who have relevant information about the location of ACMs, supply this information to the main contractor (or the co-ordinator if a CDM project) prior to work commencing. For more information, visit the Health and Safety Executive website at [www.hse.gov.uk/asbestos/regulations.htm](http://www.hse.gov.uk/asbestos/regulations.htm) (I80AB)

- 6 Regulation 12 of the Workplace (Health, Safety and Welfare) Regulations 1992 requires that every floor in a workplace shall be constructed in such a way which makes it suitable for use. Floors which are likely to get wet or to be subject to spillages must be of a type which does not become unduly slippery. A slip-resistant coating must be applied where necessary. You must also ensure that floors have effective means of drainage where necessary. The flooring must be fitted correctly and properly maintained.
- Regulation 6 (4)(a) Schedule 1(d) states that a place of work should possess suitable and sufficient means for preventing a fall. You must therefore ensure the following:
- \* Stairs are constructed to help prevent a fall on the staircase; you must consider stair rises and treads as well as any landings;
  - \* Stairs have appropriately highlighted grip nosing so as to differentiate each step and provide sufficient grip to help prevent a fall on the staircase;
  - \* Any changes of level, such as a step between floors, which are not obvious, are marked to make them conspicuous. The markings must be fitted correctly and properly maintained;
  - \* Any staircases are constructed so that they are wide enough in order to provide sufficient handrails, and that these are installed correctly and properly maintained. Additional handrails should be provided down the centre of particularly wide staircases where necessary;
  - \* Stairs are suitably and sufficiently lit, and lit in such a way that shadows are not cast over the main part of the treads.
- 7 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
- 8 Condition 21 refers to a publication called 'Contaminated land, a guide to help developers meet planning requirements' - produced in October 2003 by a group of London boroughs, including Westminster. You can get a copy of this and more information from our environmental health section at the address given below.

Contaminated Land Officer  
Environmental Health Consultation Team  
Westminster City Council  
Westminster City Hall  
64 Victoria Street  
London SW1E 6QP

Phone: 020 7641 3153  
(I73AB)

- 9 Although the canopy has 'deemed' consent, it does not meet our design guidelines and we may make you remove it. We recommend that you replace the canopy with one that meets our

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guidelines 'Shopfronts, Blinds and Signs'. You can get a copy of these guidelines from our website at [www.westminster.gov.uk](http://www.westminster.gov.uk). (I44AA)

- 10 Please make sure that the street number and building name (if applicable) are clearly displayed on the building. This is a condition of the London Building Acts (Amendments) Act 1939, and there are regulations that specify the exact requirements. (I54AA)

- 11 The development will result in changes to road access points. Any new threshold levels in the building must be suitable for the levels of neighbouring roads. If you do not plan to make changes to the road and pavement you need to send us a drawing to show the threshold and existing road levels at each access point.

If you need to change the level of the road, you must apply to our Highways section at least eight weeks before you start work. You will need to provide survey drawings showing the existing and new levels of the road between the carriageway and the development. You will have to pay all administration, design, supervision and other costs. We will carry out any work which affects the road. For more advice, please phone 020 7641 2642. (I69AA)

- 12 Please contact our Cleansing section on 020 7641 7962 about your arrangements for storing and collecting waste. (I08AA)

- 13 The term 'clearly mark' in condition 27 means marked by a permanent wall notice or floor markings, or both. (I88AA)

- 14 You will have to apply separately for a licence for any structure that overhangs the road or pavement. For more advice, please phone our Highways section on 020 7641 2642. (I10AA)

- 15 The Servicing Management Plan (SMP) required by condition 13 should clearly identify process, storage locations, scheduling of deliveries and staffing arrangements; as well as how delivery vehicle size will be managed and how the time the delivered items spend on the highway will be minimised. This must be provided for waste collection as well.

It should clearly outline how servicing will occur on a day to day basis, almost as an instruction manual or good practice guide for the occupants. A basic flow chart mapping the process may be the easiest way to communicate the process, accompanied by a plan highlighting activity locations. The idea of the SMP is to ensure that goods and delivery vehicles spend the least amount of time on the highway as possible and do not cause an obstruction to other highway users. The SMP should inform the occupant on their requirements to minimise the impact of their servicing on the highway (i.e. set out how the occupant is expected to service the unit). A supplier instructions sheet is a helpful part of the SMP.

The development for which planning permission has been granted has been identified as potentially liable for payment of both the Mayor of London and Westminster City Council's Community Infrastructure Levy (CIL). Further details on both Community Infrastructure Levies, including reliefs that may be available, can be found on the council's website at: [www.westminster.gov.uk/cil](http://www.westminster.gov.uk/cil)

Responsibility to pay the levy runs with the ownership of the land, unless another party has assumed liability. If you have not already you must submit an **Assumption of Liability Form immediately**. On receipt of this notice a CIL Liability Notice setting out the estimated CIL charges will be issued by the council as soon as practicable, to the landowner or the party that has assumed liability, with a copy to the planning applicant. You must also notify the Council before commencing development using a **Commencement Form**

CIL forms are available from the planning on the planning portal:  
<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

Forms can be submitted to [CIL@Westminster.gov.uk](mailto:CIL@Westminster.gov.uk)

**Payment of the CIL charge is mandatory and there are strong enforcement powers and penalties for failure to pay, including Stop Notices, surcharges, late payment interest and prison terms.**

- 17 This permission is governed by a legal agreement between the applicant and us under Section 106 of the Town and Country Planning Act 1990. The agreement relates to:
- a) A financial contribution of £45,000 (index linked and payable on commencement of development) for the expansion of a nearby cycle hire docking station;
  - b) A financial contribution of £25,000 (index linked and payable on commencement of development) toward wayfinding (Legible London);
  - c) A financial contribution of £27,239 (index linked and payable on commencement of development) toward the funding of Crossrail;
  - d) A financial contribution of £35,000 (index linked and payable on commencement of development) toward bi-annual pruning of the three Ginkgo trees on Old Marylebone Road by TFL and for a period of 50 years from the date of this permission;
  - e) In the event that the three Ginkgo trees need to be removed within 50 years from the date of this permission, a financial contribution of £135,000 (index linked) toward street tree planting on Old Marylebone Road;
  - f) Payment of the cost of highway works associated with the development on Old Marylebone Road and Harcourt Street;
  - g) Offering local employment opportunities during construction and operation of the hotel;
  - h) The provision, monitoring and review of a travel plan; and
  - i) Payment of cost of monitoring the agreement (£500 per head of term).

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.